

STATEMENT

ON THE PART OF

THE UNITED STATES,

OF THE CASE REFERRED.

IN PURSUANCE OF THE

CONVENTION OF 29TH SEPTEMBER, 1827.

BETWEEN THE SAID STATES AND

GREAT BRITAIN,

TO HIS MAJESTY,

THE KING OF THE NETHERLANDS.

FOR HIS DECISION THEREON.

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INTRODUCTION. (a)

THE Boundaries of the United States of America were defined, by the Treaty of Peace, concluded the 3d day of September, 1783, between the said States and His Britannic Majesty, in the following words, viz:

“ARTICLE 2. And that all disputes which might arise in future on the subject of the Boundaries of the said United States may be prevented, it is hereby agreed and declared, that the following are and shall be their Boundaries, viz: from the north-west angle of Nova Scotia, viz: that angle which is formed by a line drawn due north from the source of the St. Croix River, to the Highlands, along the said Highlands which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River; thence, down along the middle of that river, to the forty-fifth degree of north latitude; from thence, by a line due west on said latitude, until it strikes the River Iroquois or Cataraquy; thence, along the middle of said river, into Lake Ontario, through the middle of said Lake, until it strikes the communication by water between that lake and Lake Erie; thence, along the middle of said communication into Lake Erie, through the middle of said lake, until it arrives at the water communication between that lake and Lake Huron; thence, along the middle of said water communication, into the Lake Huron; thence, through the middle of said lake, to the water communication between that lake and Lake Superior; thence, through Lake Superior, northward of the Isles Royal and Philipeaux, to the Long Lake; thence, through the middle of the said Long Lake, and the water communication between it and the Lake of the Woods, to the said Lake of the Woods; thence, through the said lake, to the most north-western point thereof; and from thence, on a due west course, to the River Mississippi; thence, by a line to be drawn along the middle of the said River Mississippi, until it shall intersect the northernmost part of the thirty-first degree of north latitude. South, by a line to be drawn due east from the determination of the line last mentioned, in the latitude of thirty-one degrees north of the equator, to the middle of the River Apalachicola or Catahouche; thence, along the middle thereof, to its junction with the Flint River; thence, straight to the head of St. Mary's River; and thence, down along the middle of St. Mary's River, to the Atlantic Ocean. East, by a line to be drawn along the middle of the River St. Croix, from its mouth in the Bay of Fundy to its source; and from its source, directly north, to the aforesaid Highlands which divide the rivers that fall into the Atlantic Ocean from those which fall into the River St. Lawrence: comprehending all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid Boundaries between Nova Scotia, on the one part, and East Florida, on the other, shall respectively touch the Bay of Fundy and the Atlantic Ocean; excepting such islands as now are, or heretofore have been, within the limits of the said Province of Nova Scotia.”

Circumstances, on which it is now unnecessary to dwell, prevented an immediate execution of some of the provisions of the treaty of 1783. It was only by the

(a) For all the quotations from Treaties between the United States and Great Britain, see Written Evidence, No. 1.

treaty of Amity, Commerce, and Navigation, concluded on the 19th of November, 1794, between the two Powers, that His Britannic Majesty agreed, on certain conditions therein specified, to withdraw, on or before the first day of June, 1796, all his troops and garrisons from all posts and places within the Boundary Lines assigned by the Treaty of Peace to the United States.

Doubts having arisen what river was truly intended under the name of the River St. Croix, mentioned in the aforesaid treaty of peace, and forming a part of the Boundary therein described, that question was referred, by virtue of the fifth article of the said treaty of 1794, to the final decision of Commissioners to be appointed in the manner therein prescribed: And both parties agreed, by the said article, to consider such decision as final and conclusive, so as that the same should never thereafter be called into question, or made the subject of dispute or difference between them.

The Commissioners, appointed in conformity with the said fifth article of the treaty of 1794, did, by their declaration of October 25th, 1798, decide, a river called "Seoodiac," and the northern branch of it (called "Cheputnaticook,") to be the true River St. Croix intended by the treaty of peace; that its mouth was in the Bay of Passamaquoddy, at a place called Joe's Point, and its source at the northernmost head spring of the northern branch aforesaid. (b)

By the treaty of peace concluded at Ghent, on the 24th of December, 1814, it was agreed to provide for a final adjustment of the Boundaries described in the treaty of 1783, which had not yet been ascertained and determined, embracing certain islands in the Bay of Fundy, and the whole of the Boundary Line from the source of the River St. Croix to the most north-western point of the Lake of the Woods.

It is provided by the fifth article of the said treaty as follows:

"WHEREAS neither that point of the Highlands lying due north from the source of the River St. Croix, and designated in the former treaty of peace between the two Powers, as the north-west angle of Nova Scotia, nor the north westernmost head of Connecticut River, has yet been ascertained; and whereas that part of the Boundary Line between the dominions of the two Powers, which extends from the source of the River St. Croix, directly north, to the above mentioned north-west angle of Nova Scotia; thence, along the said Highlands which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River; thence, down along the middle of that river, to the forty-fifth degree of north latitude; thence, by a line due west, on said latitude, until it strikes the River Iroquois or Cataraguy, has not yet been surveyed; it is agreed that for those several purposes, two Commissioners shall be appointed, sworn, and authorized to act, &c. The said Commissioners shall have power to ascertain and determine the points above mentioned, in conformity with the provisions of the said treaty of peace of 1783, and shall cause the Boundary aforesaid, from the source of the River St. Croix to the River Iroquois or Cataraguy, to be surveyed and marked according to the said provisions. The said Commissioners shall make a map of the said Boundary, and annex to it a declaration, under their hands and seals, certifying it to be the true map of the said boundary, and particularizing the latitude and longitude of the north-west angle of Nova Scotia, of the north-westernmost head of Connecticut River, and of such other points of the said Boundary as they may deem proper. And both parties agree to consider such map and declaration as finally and conclusively fixing the said Boundary."

The same article further provides for the reference to a friendly Sovereign or State, in the event of the Commissioners differing, or of both, or either of them, refusing, declining, or omitting to act.

The Commissioners appointed in conformity with the said fifth article, after sitting near five years, could not agree on any of the matters referred to them, nor even on a general map of the country exhibiting the Boundaries respectively claimed by each party. They accordingly made separate reports to both Governments, stating the points on which they differed, and the grounds upon which their respective opinions had been formed.

The case having arisen which rendered it necessary to refer the points of difference to a friendly Sovereign or State, the two Powers found it expedient to regulate the proceedings, and make some further provision in relation to the said reference; and, on the 29th of September, 1827, concluded a Convention to that effect.

It was thereby agreed, amongst other provisions, that new and separate statements of the respective cases, severally drawn up by each of the Contracting Parties, should be substituted to the reports and documents of the Commissioners above mentioned; reserving to each party the power to incorporate in, or annex to, either of its statements, any portion of the said reports and documents which it might think fit.

The Map A. was also agreed on by the Contracting Parties, as a delineation of the water-courses, and of the Boundary Lines in reference to the said water-courses, as contended for by each party respectively. And that map, together with that called Mitchell's Map, by which the framers of the treaty of 1783 are acknowledged to have governed their joint and official proceedings, were declared to be the only maps that should be considered as evidence, mutually acknowledged by the Contracting Parties, of the topography of the country.

Where those maps differ one from the other, they must, of course, be considered as evidence mutually acknowledged; the Map A, of the actual topography of the country, and Mitchell's Map, of the topography as it was understood by the framers of the treaty of 1783.

The two Governments having since agreed in the choice of a friendly Sovereign, and His Majesty the King of the Netherlands, thus happily selected as Arbitrator, having consented to act as such, this statement of the case on the part of the United States, is respectfully submitted to his consideration.

The Boundary Lines as contended for by each party respectively, which are delineated on the Map A, give a general view of the conflicting claims of the two Parties, and of the points of difference on which the decision of His Majesty, in conformity with the provisions of the treaty of peace of 1783, is respectfully requested.

Those points of difference may be reduced to three, which will be separately discussed, viz:

1st. The north-west angle of Nova Scotia, and the Boundary Line contemplated by the treaty of 1783, extending from that angle, along certain Highlands, to the north-westernmost head of Connecticut River.

2dly. The north-westernmost head of Connecticut River, contemplated by the treaty of 1783.

3dly. The Boundary Line from the Connecticut River to the River Iroquois or Cataraquy, (St. Lawrence,) as intended by the treaty of 1783.

I.

NORTH-WEST ANGLE OF NOVA SCOTIA, AND LINE THENCE TO THE NORTH-WESTERNMOST HEAD OF CONNECTICUT RIVER.

In order to avoid the confusion which might arise from a change of names, it is necessary, in the first place, to premise, that, subsequent to the treaty of 1783, the Province of Nova Scotia, which, at the date of that treaty, was contiguous to the

United States, has been divided, by the British Government, into two Provinces: the south-eastern part, or peninsula, retaining the name of Nova Scotia, and the north-western part, which is that adjacent to the United States, having been erected into a new Province, by the name of New Brunswick. (c)

The British Province of Quebec, as it was called at the date of the treaty of 1783, has also been since divided into two Provinces, viz: Upper Canada and Lower Canada; this last being that which is contiguous to the United States, as far west as the Boundary now in discussion extends. (d)

On the other hand, that portion of the State of Massachusetts lying east of the State of New Hampshire, which was, at the date of the treaty of 1783, known by the name of Province of Maine, and extended eastwardly as far as the then Province of Nova Scotia, has been since erected into a State by the name of Maine, admitted as such into the Union, and is now contiguous to the British Provinces of New Brunswick and Lower Canada. (e)

§ 1.

The American Line established by the terms of the Treaty.

The differences and doubts which had formerly existed as to the Boundary on the sea shore, between the Provinces of Nova Scotia and Massachusetts, and as to what was the true River St. Croix, have now been definitively settled.

The River Scodiac has been authoritatively declared and determined to be the River St. Croix contemplated by the treaty of peace of 1783, and, as such, to be the Boundary between the United States and the British dominions, from its mouth to its most northern source. In conformity with the Second Explanatory Article of 15th March, 1798, a monument has been erected at the said source, which is mutually acknowledged as the point of departure, whence the Boundary is a due north line to the Highlands designated by the treaty of 1783. What are the Highlands thus designated, is, therefore, the only question at issue.

As the description of the Boundary Line of the United States, in the treaty of 1783, commences, so also it terminates, at the north-west angle of Nova Scotia. In order, therefore, to include the whole line from the River St. Croix to the sources of the Connecticut River, it is necessary to bring together and connect the former and the latter clause descriptive of the Boundary, in the second article of the treaty. They are as follows, viz:

“From the north-west angle of Nova Scotia, viz: that angle which is formed by a line drawn due north from the source of St. Croix River to the Highlands; along the said Highlands which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River, East by a line to be drawn along the middle of the River St. Croix, from its mouth in the Bay of Fundy to its source, and from its source directly north to the aforesaid Highlands which divide the rivers that fall into the Atlantic Ocean from those which fall into the River St. Lawrence.”

The line drawn due north, or directly north, from the source of the River St. Croix, to the Highlands, is mentioned in both clauses. In the first, the Highlands, at which the due north line terminates, are, by the word *scilicet*, which almost immediately follows, identified with the Highlands which divide the rivers designated by the treaty: and in the latter clause, the same north line is declared to extend to the aforesaid Highlands which divide the said rivers.

It is, therefore, evident, that the north-west angle of Nova Scotia, contemplated by the treaty, being formed by the intersection of a line drawn due north from the source of the River St. Croix, with the Highlands which divide the rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, must be found on the very Highlands thus described.

It is equally clear, that, inasmuch as the north west angle of Nova Scotia must, necessarily, be formed by the intersection of the lines constituting the northern and western Boundaries of Nova Scotia, the Highlands above described, viz: the Highlands which divide the rivers that fall into the River St. Lawrence from those which fall into the Atlantic Ocean, were, at the date of the treaty of 1783, a portion of the northern Boundary of Nova Scotia.

Finally, the Boundary Line, through its whole extent, from the north-west angle of Nova Scotia, to the north-westernmost head of Connecticut River, must, according to the express words of the treaty of 1783, be along the said Highlands which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean.

The Highlands, therefore, contemplated by the treaty, are Highlands which, at a point due north from the source of the River St. Croix, divide the rivers falling into the Atlantic Ocean from those that fall into the River St. Lawrence; Highlands, extending eastwardly from that point (which is the north-west angle of Nova Scotia,) and continuing for some distance, at least, in that direction, to divide the rivers as aforesaid, so as to form there the northern Boundary of Nova Scotia; Highlands extending, likewise, south-westwardly, from the same point, and dividing the rivers as aforesaid, the whole distance from the said point, or north-west angle of Nova Scotia, to the north-westernmost head of Connecticut River.

The words, "Highlands which divide the rivers," are inseparable; the term "Highlands," in its general sense, and undefined by any adjunct, being one of relative import and indeterminate signification.

Had the north-west angle of Nova Scotia been designated prior to and in the treaty itself only as formed by the due north line drawn from the source of the River St. Croix, and by the Highlands generally, without stating what Highlands, there would have been no certain criterion by which to ascertain what were the Highlands intended. Had that first difficulty been, by any means, removed, it might have been equally impracticable, amongst the different lines which could have been suggested through a country intersected by numerous broken ridges, running in various directions, to ascertain which was entitled to preference; and how the Boundary Line was to be surveyed to the north-westernmost head of Connecticut River, if that line had been designated only as passing along the Highlands, without expressly pointing out what were the Highlands intended.

It is the property of dividing the rivers, therefore, which affixes a specific and precise meaning to the general expression of "Highlands;" and which determines both the north-west angle of Nova Scotia and the Boundary Line extending thence to the north-westernmost head of Connecticut River. It is that property, what, in French, is called, "Point de Partage," which constitutes the essence of the treaty definition.

The limited knowledge which had been obtained in the year 1783, of the face of the country, rendered it impossible to recur to any other criterion in that definition. For this assertion we are not left to conjecture. Mitchell's map exhibits no other clear and sufficiently correct features of the topography of the country than its rivers and water-courses: it was, therefore, in reference to these alone that the negotiators could define the boundary line.

Avoiding accordingly the words, "mountains," "hills," or any such as might have been derived from, or indicative of, the peculiar nature of the ground, the general expression "Highlands" was adopted, as applicable to any ground, (whatever might be its nature or elevation,) along which the line dividing the rivers should be found to pass: the fact, that the ground dividing rivers is necessarily more elevated than those rivers and the country adjacent to their banks, being sufficient to entitle it to the designation of "Highland," in relation to those rivers and to that country. (*f*)

No Highlands can divide the rivers that fall into the Atlantic Ocean from those which fall into the River St. Lawrence, but those Highlands in which the rivers thus designated, or their tributary streams, have their respective sources, and thence flow in different directions, to the Ocean and to the St. Lawrence, respectively. The map A. shews that there are, along the line drawn due north from the source of the River St. Croix, but two places which divide rivers thus flowing in different directions, and in which those rivers have their respective sources.

The due north line from the source of the River St. Croix, crosses no other rivers, for a distance exceeding ninety miles, but tributary streams of the River St. John, and that river itself. There is not along the line, through the whole of that distance, a single point that divides rivers falling into the Atlantic Ocean from those falling into the River St. Lawrence, or that divides any other water-courses whatever, but such as fall into one and the same river, viz: the River St. John.

At about ninety-seven miles from the source of the River St. Croix, the due north line reaches a ridge or Highland which divides tributary streams of the River St. John, which falls into the Bay of Fundy, from the waters of the River Ristigouche, which falls, through the Bay des Chaleurs, into the Gulf of St. Lawrence. And, in its further north course, the said line, after crossing several upper branches of the River Ristigouche, reaches, at the distance of about 144 miles from the source of the River St. Croix, the Highlands which divide the waters of the said River Ristigouche from the tributary streams of the River Metis, which falls into the River St. Lawrence. It is clear that there is no other possible choice but between those two places, and that the north-west angle of Nova Scotia must, of necessity, be found at the intersection of the said due north line with, either the Highland which divides the waters of the River St. John from those of the River Ristigouche, or the Highlands which divide the waters of the River Ristigouche from those of the River Metis; since there is no other point, through the whole course of the due north line, which divides any other waters but such as empty themselves into the same river. (*g*)

The selection between those two dividing Highlands evidently depends on what is meant, according to the treaty of 1763, by rivers that empty themselves or fall into the River St. Lawrence, and by rivers which fall into the Atlantic Ocean.

The treaty recognizes but two classes of rivers. The first class embraces only the rivers falling into a river, designated by its specific name, and cannot be construed to include any rivers that do not empty themselves into the river thus specially designated. It must be inferred that all the rivers met by the due north line, which do not actually empty themselves into the river St. Lawrence, according to its known limits, are, by the treaty, considered as falling into the Atlantic Ocean.

(*f*) It is not intended by these observations, either to admit that the ground along which the line contended for by the British passes, is, in the sense they attach to the word, entitled to the appellation of "Highlands," or that there were not reasons derived from usage and general understanding for adopting that term. The word "Highlands" is here considered only in its general sense, and as it stands in the treaty. See hereafter the observations on the Proclamation of 1763.

(*g*) Into the River St. John, as far north as the first Highland which divides the waters of that river from those of the Ristigouche; into the River Ristigouche, between that first Highland and those which divide the waters of that river from those of the River Metis.

This conclusion is in perfect accordance with what is understood by "Atlantic Ocean" in the usual and general acceptance of the term.

"Sea," in its general sense, embraces the whole body of salt waters on the globe; its great subdivisions are designated by the names of Atlantic Ocean, Pacific, Indian, Arctic, Antarctic Ocean, &c. and each of these is a generic appellation, embracing, when not specially or impliedly excluded, all the bays, gulfs, and inlets which are only portions of such ocean, being formed by the indentures of the shores to which it does extend, or by adjacent islands.

The Northern Atlantic Ocean extends from the European shores to those of North America. In its general sense, it embraces all the bays, gulfs, and inlets, though distinguished by distinct names, which are formed by the shores of Europe and North America. This is too generally admitted in geography to be denied; and a single quotation from a popular work, will be adduced by way of illustration.

"Scotland is bounded on the south by England, and on the north, east, and west, by the Deucealedonian, German, and Irish Seas; or, more properly, the Atlantic Ocean." (h)

The Atlantic Ocean is here explicitly declared to embrace the Irish Channel and the German Sea, although there is no portion of the said Ocean more usually designated by its distinct appellation than the German or North Sea.

In the case under consideration, not only is the generic appellation of "Atlantic Ocean" used as distinguished from, and contrasted with, the River St. Lawrence alone, but every river not emptying itself into the said river, which was, or could possibly have been contemplated by the framers of the treaty of 1783, as falling into the Atlantic Ocean, falls into it through some intermediate gulf or bay, known, and, in Mitchell's map, designated by a specific and distinct name: that is to say; the river Ristigouche, through the Bay des Chaleurs, and the Gulf of St. Lawrence; the river St. John, through the Bay of Fundy; the rivers Magaguadavie, (Mitchell's St. Croix) and Scodiac, (Mitchell's Passamacadie) through the Bay of Passamaquoddy and the Bay of Fundy; the Penobscot through the Bay of the same name; the Kennebec through the Sagadahock Bay; and the Connecticut River through Long Island Sound, which last inlet is as much a close and distinct sea, or portion of the Atlantic Ocean, as the Gulf of St. Lawrence, and more so than the Bay of Fundy. So that if the rivers which fall into the Atlantic through a gulf, bay, or inlet, known by a distinct name, are not, under the treaty of 1783, rivers falling into the Atlantic Ocean, there is not a single river that could have been contemplated by the treaty as such, to which the description applies.

The River Ristigouche is, therefore, as clearly embraced by the words "rivers falling into the Atlantic Ocean," as either the River St. John, the Penobscot, or the Kennebec; and, if excepted, it must be by virtue of some other provision in the treaty.

The designation of the Gulf of St. Lawrence, by that special name, in any other portion of the treaty, is not sufficient to narrow the meaning of the words, "rivers falling into the Atlantic Ocean," used as they are, in the description of the Boundary, in their general sense and common acceptance, unless it can be shewn that the special designation was used expressly in order to restrain that general meaning, and not for a special purpose.

Whenever it is intended to make a provision applicable only to a particular bay, gulf, or portion of the ocean, or when the object is to designate with precision the situation of the mouth of a river, or of some other place lying on the shore, or when it appears necessary, in order to remove any doubt whatever, the distinct name of such bay or gulf must necessarily be used. The special appellation being thus used in one sentence, for a special avowed object, is applicable to that object alone, and can-

not affect the clear and express meaning of another clause in the treaty. Still less can it be so construed in relation to a clause in which the generic term, "Atlantic Ocean," is used, not only without restriction, but as contradistinguished from the River St. Lawrence alone.

The Gulf of St. Lawrence is designated by its specific name in but one sentence of the treaty. It is provided, by the third article, "that the people of the United States shall continue to enjoy unmolested the right to take fish of every kind on the Grand Bank, and on all the other Banks of Newfoundland; *also in the Gulf of St. Lawrence*, and at all *other* places in the Sea, where the inhabitants of both countries used at any time heretofore to fish."

So far from this provision having any bearing on the clauses in which the rivers falling into the Atlantic Ocean are mentioned, the only question which arises, is, why the Gulf of St. Lawrence was at all mentioned, since the provision would have apparently been as complete, had that name been omitted, and the clause had simply declared the right to take fish to extend to "*all places in the Sea* where the inhabitants of both countries used heretofore to fish."

The reason was, that the Gulf of St. Lawrence being a close Sea, the shores of which did belong to Great Britain exclusively, (i) a doubt might have arisen whether, notwithstanding the general provision, the people of any other nation could fish there without an express stipulation to that effect. Although the Gulf of St. Lawrence is actually declared in the clause to be a place in the Sea, it was deemed proper to name it expressly, by way of greater caution, and in order to remove every possible doubt on that subject. And the meaning of the clause is, that the people of the United States shall have the right to fish at all places in the Sea, where, &c. without even excepting the Gulf of St. Lawrence, and although this might be considered as under the exclusive jurisdiction of Great Britain.

It is for the same reason that it was necessary, in the same article, to stipulate expressly for the right of taking fish on the coasts, bays, and creeks, of all other of His Britannic Majesty's dominions in America, as, otherwise, some of those bays, &c. though, in fact, parts of the Sea where the inhabitants of both countries used, prior to the war, to fish, might have been considered as excepted, by reason of their being within the exclusive jurisdiction of Great Britain. And it is also for a similar reason, on account of the pretensions of Great Britain on the subject of fisheries, that it was even deemed necessary to insert an express provision declaratory of the right of the people of the United States to continue to take fish on the Grand Bank, and the other Banks of Newfoundland; although those Banks could not be denied to be "places in the Sea," and might certainly have been considered as included within that general term.

Since the specific designation, in the third article, of the "Gulf of St. Lawrence," for a special purpose, cannot narrow the meaning of the generic term "Atlantic Ocean," when used for a general purpose, and without restriction, the only question is, whether the River Ristigouche can, by any construction, be considered as falling into the River St. Lawrence.

The similarity of names, and the character of that river, might render it somewhat difficult to ascertain the precise place where it terminates, and where the Gulf commences, which must be acknowledged to be in a great degree arbitrary. The doubts in that respect are, however, removed by an authority, which, as to that point, appears conclusive.

(i) Although the French had, and still have, the right to take, and even to dry, fish on the western coast of Newfoundland, the sovereignty of the island remains with Great Britain, by virtue of the treaty of Utrecht. Written Evidence, No. 7.

By His Britannic Majesty's Proclamation of the 7th of October, 1763, for erecting the Government of Québec and other purposes, that Government or Province is declared to be bounded, on the Labrador Coast, by the River St. John, (*k*) and its eastern Boundary from Cape Rosiers is afterwards described in the following words, viz: "And from thence crossing the *mouth* of the River St. Lawrence by the west end of the Island of Anticosti, terminates at the aforesaid River St. John." (*l*)

All the rivers, the mouths of which lie west of the said Boundary, as delineated in the American transcript of map A, are thereby declared to empty themselves above the mouth of, and into the River St. Lawrence. All the rivers, on the contrary, the mouths of which are east of the said Boundary, or south of Cape Rosiers, (*m*) including the River Ristigouche, are declared to empty themselves below the mouth of the River St. Lawrence, and fall into the Atlantic Ocean through the Gulf of St. Lawrence.

The north-west angle of Nova Scotia, described in the treaty of 1783, is therefore formed by, and determined to be at the intersection of the line drawn due north from the source of the River St. Croix, (being the point A in the map A, and about 144 miles from the said source,) with the Highlands that divide the tributary streams of the Ristigouche, which falls into the Atlantic Ocean, from the tributary streams of a river emptying itself into the River St. Lawrence, and presumed, according to the map A, to be the River Metis. The said Highlands, from the said north-west angle, extend south-westwardly to the north-westernmost head of Connecticut River, and eastwardly, to Gaspe, dividing the whole way the waters of the Atlantic Ocean from those of the River St. Lawrence.

The said north-west angle of Nova Scotia is formed by the intersection of the said due north line, which is the western Boundary of Nova Scotia, with the Highlands which, from the point of intersection, extend eastwardly, and, for some distance at least, must be the northern Boundary of Nova Scotia, so as to form the said north-west angle according to the treaty.

And the Boundary Line between the dominions of the two Powers, as described by the said treaty, (and delineated on the map A,) extends due north from the source of the river St. Croix, about 144 miles to the north-west angle of Nova Scotia, as above described; and thence along the Highlands which divide the rivers that empty themselves into the River St. Lawrence from the tributary streams of the River Ristigouche, of the River St. John, and of the other rivers which fall into the Atlantic Ocean, to the north-westernmost head (whatever this may be) of the Connecticut River: so that the said line does, through its whole extent, (from the said north-west angle of Nova Scotia, to the said north-westernmost head of Connecticut river,) pass between the sources of the said rivers, leaving, on the right hand, and within the dominions of Great Britain, the sources and all the waters of the rivers emptying themselves into the River St. Lawrence; and, on the left hand, and within the dominions of the United States, the sources and all the waters (lying west of the line

(*k*) This River St. John, on the Labrador Coast, must not be confounded with the Great River St. John which falls, through the Bay of Fundy, into the Atlantic Ocean.

(*l*) All the maps adduced in evidence agree with this designation of the River St. Lawrence. See, amongst others, Topographical Evidence, Printed Maps, No. 50.

(*m*) According to James the First's Grant of Nova Scotia to Sir W. Alexander, in 1621, the River St. Lawrence seems to have been understood to extend as far South at least, as Gaspe, which lies between Cape Rosiers and Bay des Chaleurs. The words are "et ab eo pergendo versus orientem per maris oras littorales ejusdem fluvii de Canada, ad fluvium, stationem navium, portum aut litus communiter nomine de Gachepe vel Gaspe notum et appellatum."

drawn due north from the source of the River St. Croix.) of the Rivers Ristigouche and St. John, as well as of all the other Rivers which fall into the Atlantic Ocean.

It is believed that a single glance at the map A, comparing it with the words of the treaty will, instantaneously, lead to the same conclusion. To prove what, from the tenor of the treaty is self-evident, presents no other difficulty than what is inherent to any attempt to demonstrate an axiom or self-evident truth. In such an attempt, the danger is incurred of obscuring what needed no illustration. An apology for having said so much will probably be found in the positions which the other party is compelled to assume.

§ 2.

Ancient Provincial Boundaries as established by former authentic acts.

The United States might safely rest their case on what precedes. When the terms of a treaty are clear and explicit; when their meaning is susceptible of but one construction, it is not necessary to resort to any other source of arguments. Still it is permitted to seek for the intentions of the parties in the instrument itself: and as such of the proceedings connected with the negotiations of the treaty of peace as have been preserved, have been adduced as evidence, and will probably be resorted to on the part of Great Britain, it may not be useless, though it may be deemed superfluous, to examine whether there is, as connected with those proceedings, any proof, on the face of the instrument, of the avowed intent of the parties.

The Congress of the United States, on the 14th of August, 1779, agreed to a draft of instructions to the Commissioner to be appointed to negotiate a treaty of peace with Great Britain. As part of those instructions, the Boundaries of the United States are declared to be as follows, viz:

“These States are bounded north by a line to be drawn from the north-west angle of Nova Scotia, along the Highlands which divide those rivers which empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut river;
 and east, by a line to be drawn along the middle of St. John River, from its source to its mouth in the Bay of Fundy, if the eastern Boundary above described cannot be obtained, you are hereby empowered to agree, that the same shall be afterwards adjusted by Commissioners, to be duly appointed for that purpose, according to such line as shall be by them settled and agreed on, as the Boundary between that part of the State of Massachusetts Bay, formerly called the Province of Maine, and the Colony of Nova Scotia, agreeably to their respective rights.” (n)

In a report of a Committee of Congress, presented 16th August, 1782, it is confessed that the eastern part of Massachusetts, “which goes by the name of Sagadahock, cannot be proved to extend to the river St. John as clearly as to that of St. Croix.” (o)

Congress had, previously, by their final instructions of the 15th of June, 1781, modified those of the 14th of August, 1779, and directed their Ministers “to accede to no treaty of peace which should not secure the independence and Sovereignty of the Thirteen States, or inconsistent with the treaties subsisting between them and

(n) Secret Journals of Congress, Vol. 2, page 223. Written Evidence, No. 8.

(o) Secret Journals of Congress, Vol. 2, page 171. Written Evidence, No. 8.

France;" upon every other subject tying them up by no absolute and peremptory directions; but still referring to the former instructions as expressive of the desires and expectations of Congress. (p)

In conformity with those instructions, Benjamin Franklin and John Jay, two of the Commissioners of the United States, in the first propositions made by them and agreed upon, on the 8th of October, 1782, between them and Richard Oswald, the British Commissioner, (but to be submitted to His Britannic Majesty's consideration,) defined the Boundaries of the United States in precise conformity with the first part of the instructions of 14th August, 1779.

But these being objected to, the other alternative, as contained in the subsequent part of the same instructions, was substituted, agreed to before the articles were sent to London, and a memorandum to that effect annexed to them in the following words, viz: "Alteration to be made in the treaty respecting the Boundaries of Nova Scotia, viz: east, the true line between which and the United States shall be settled by commissioners, as soon as conveniently may be after the war." (q)

Counter-proposals were transmitted from London, which have not been preserved. (r) It appears only that much contestation took place about the Boundaries and other articles; the British contending, at first, that Nova Scotia should extend to the River Kennebec; then to Penobscot; and, at length, agreeing to the River St. Croix; and one of the American Ministers at first proposing the River St. John; but, on the observation that St. Croix was the River mentioned in (s) the Charter of Massachusetts Bay, agreeing with them to adhere to the said Charter. (t)

Whatever may have passed in conversation, or in the course of the negotiations, it is certain that the American Commissioners had first proposed the River St. John as the Boundary; that, to that proposal, they substituted that of leaving the true Boundary Line between Nova Scotia and the United States, to be settled by Commissioners, after the peace, to which the British Commissioner agreed provisionally; and that, finally, availing themselves of the discretion given to them by the instructions of 15th June, 1781, it was ultimately agreed, instead of leaving the Boundary in that unsettled situation, to define it in the treaty itself.

The clear inference is, that the confirmation of the Boundary Line between the Province of Massachusetts and the other British Provinces, as it existed prior to the hostilities, was adopted as the basis of that part of the treaty; and the words used in the treaty itself shew, that such was the intention in relation to the whole Boundary Line.

By the first article of the treaty, His Britannic Majesty acknowledges the United States, viz: New Hampshire, Massachusetts Bay, &c, to be free, sovereign, and independent States, and for himself, his heirs and successors, relinquishes all claims to the Government, property and *Territorial rights* of the same, and every part thereof. The second article then proceeds as follows, viz: "and that all disputes which might arise in future, on the subject of the Boundary of the said United States, may be prevented, it is hereby agreed and *declared* that the following are and shall be their Boundaries, viz: from *the* north-west angle of Nova Scotia," &c.

(p) Secret Journals of Congress, Vol. 2, page 445. Written Evidence, No. 8.

(q) Extracts from Dr. Franklin's Correspondence. Written Evidence, No. 9.

(r) The Paper No. 2, mentioned in Dr. Franklin's Letter of 5th December, 1782, has not been found in the Archives of the United States, and, not having been adduced in evidence by the British Government, who have quoted No. 1 (the articles above mentioned) from Franklin's Printed Correspondence, is presumed to be lost.

(s) The River St. Croix is not mentioned in that Charter. The statement should have been, that it must be inferred from the Charter, as connected with other documents, that the St. Croix was the Boundary.

(t) Extracts from Dr. Franklin's Correspondence. Written Evidence, No. 9.

The acknowledgment of the several States, by their several names, *Massachusetts Bay* (u) included, the relinquishment of all claims to the territorial rights of the same, the provision by which it is not only agreed what shall be, but declared what *are* their Boundaries, and the reference to *the* north-west angle of Nova Scotia, as a point the position of which was already understood by the two Powers, concur all, in connexion with the proposals previously made, to prove the intention of the parties to have been to confirm, as far as practicable, the Boundaries of the States, and of Massachusetts, particularly, as they had been established when British Provinces. And it may be added that this, in addition to the clear and express intentions as expressed in the designation of the Boundary itself, is the only avowed intention of the parties that can be inferred from, or be found in the body of the treaty.

What were those Provincial Boundaries is now to be examined. The conflicting claims of France will not, in the inquiry, be adverted to further than is absolutely necessary for explanation, since the fate of arms decided against her; and since, between the present parties, documents emanating from Great Britain are, alone, authoritative in questions relating to the Boundaries of what were formerly British Provinces.

By a charter of the 10th of September, 1621, James I. granted to Sir William Alexander a certain territory, under the name of "Nova Scotia," with the following Boundaries: (v)

"Beginning at Cape Sable, in 43° north latitude, or thereabout, extending thence westwardly along the Sea shore, to the road commonly called St. Mary's Bay; thence towards the north by a direct line crossing the entrance or mouth of that great ship road, which runs into the eastern tract of land between the territories of the Souriquois and of the Etehemins, (Bay of Fundy,) to the river commonly called St. Croix, and to the most remote spring or source, which, from the western part thereof, first mingles itself with the river aforesaid; from thence, by an imaginary direct line, which may be conceived to stretch through the land, or to run towards the north, to the nearest road, river or spring emptying itself into the great river de Canada; (River St. Lawrence;) and from thence proceeding eastwardly along the Sea shores of the said river de Canada, to the river, road, port, or shore commonly known and called by the name of Gachepe or Gaspé; and thence south-eastwardly to the islands called Baccalcos or Cape Breton, leaving these islands on the right, and the Gulf of the said great river de Canada or of the great ship road, and the lands of Newfoundland, with the islands to the same pertaining, on the left; and thence to the headland or promontory of Cape Breton aforesaid, lying near the latitude of 45 degrees, or thereabout; and from the said Promontory of Cape Breton, towards the south and west, to Cape Sable aforesaid, where the perambulation began,
 all which lands aforesaid, shall at all times hereafter be called and known by the name of Nova Scotia, or New Scotland, in America." (w)

The description of the limits of Nova Scotia, in that first charter, which gave the name to the territory, has evidently been the model from which all the subsequent designations of its Boundaries have been borrowed. Although the western Boundary thereby assigned to Nova Scotia is nearly the same as the eastern Boundary of the

(u) Designating it, in the treaty, by the name under which it had been known when a British Province, and not by that of *Massachusetts*, which since the year 1780, was its legal name as a State. The territorial rights relinquished, are, therefore, those within her Boundaries as a Province, unless so far as such Boundaries were altered by the words of the treaty.

(v) Written Evidence, No. 10.

(w) This grant was confirmed, in the same words, by a subsequent Charter of Charles I. dated 12th July, 1625.

United States, as described by the treaty of peace of 1783, they differ in the following particulars:

1st. The western source of the River St. Croix appears to have been intended by Sir William Alexander's Charter; but by the treaty of 1783, the said river, from its mouth to its source, without particularly designating which source, is made the Boundary: and this, as already stated, has been decided to be the river from its mouth to the source of its north branch.

2nd. The line from the source of the River St. Croix, is, according to the Charter, to run *towards* the north, (versus septentrionem;) by the treaty, it must run due north, or directly north.

3d. The said line, by the Charter, runs to the nearest river or spring emptying itself into the River St. Lawrence, and by the treaty, to the Highlands dividing the rivers, &c. or, in other words, to the Highlands in which the rivers emptying themselves into the River St. Lawrence have their sources. But, by the treaty, the said north line terminates at the said Highlands or sources, whilst, by the Charter, it extends thence to the banks of the River St. Lawrence itself. By the Charter, therefore, the north-west angle of Nova Scotia was to be found on the bank of the River St. Lawrence; by the treaty it is designated as being on the Highlands. This last difference arose from the acts of the British Government, subsequent to the year 1762, establishing the southern Boundary of the Province of Quebec, which will be hereafter mentioned.

On the 3d of April, 1639, Charles I. granted to Ferdinando Gorges, by the name of Province or County of Maine, a territory bounded on the west by Pascataway Harbor and the River Newichewanocke, (Piscataqua River,) to the furthest head thereof, extending from Pascataway Harbor, north-eastwards, along the Sea Coast to Sagadahock, (the River Kennebec below the confluence of the River Androscoggin,) and up the river thereof to Kynybecky River, and, through the same, to the head thereof, &c. (x)

This grant was purchased in the year 1674, by the Colony of Massachusetts; (y) and although the name of Maine has since been extended to the country, eastwardly, as far as the Boundaries of Nova Scotia, the ancient Province of Maine, according to the aforesaid original grant, was bounded, on the east, by the River Sagadahock or Kennebec.

On the 12th of March, 1663, Charles II. granted to his brother James, Duke of York, "all that part of the main land of New-England, beginning at a certain place called or known by the name of St. Croix, adjoining to New Scotland in America; and from thence extending along the Sea Coast, unto a certain place called Pemaquin or Pemaquid, and so up the River thereof to the furthest head of the same as it tendeth northwards, and extending from thence to the River of Kennebec, and so up, by the shortest course, to the River of Canada, northwards" (z) This last described territory, to which the name of Maine has since extended, is that which, in ancient maps, is called Sagadahock; and it will be perceived that it extended northward to the River St. Lawrence.

Great Britain having, by the 10th article of the treaty of Breda, concluded on the 31st of July, 1667, agreed to restore to France the country called Acadia, situated in North America, which had formerly been in the most Christian King's possession, (a) the Duke of York obtained from Charles II. a subsequent confirmation of his

(x) Written Evidence, No. 11.

(y) Written Evidence, No. 11.

(z) Written Evidence, No. 12.

(a) Written Evidence, No. 7.

grant, bearing date the 29th of June, 1674. (*b*) This second grant or confirmation shows that, in the restoration of Acadia, Great Britain did not mean to include any territory west of the St. Croix; and the said confirmation was obviously asked and granted in order to remove any doubts on that subject. The territory was afterwards governed under the authority of the Duke of York, (*c*) and, at his accession to the throne, merged in the crown.

The three above described territories, Nova Scotia, the ancient Province of Maine, and Sagadahock, or the Duke of York's Grant, were by the last Charter of Massachusetts, granted on the 7th of October, 1691, by William and Mary, annexed to the then Colony of Massachusetts' Bay, as will appear by the following extracts of the said Charter. (*d*)

"We . . . will and ordain that the territories and colonies commonly called or known by the names of the Colony of the Massachusetts Bay and Colony of New Plymouth, (these forming the now State of Massachusetts, or Massachusetts Proper,) the Province of Main, the Territory called Acadia or Nova Scotia and all that tract of land lying between the said Territories of Nova Scotia and the said Province of Main, be united, erected, and incorporated . . . by the name of our Province of Massachusetts' Bay, in New England; . . . and do give and grant unto our said subjects the inhabitants of our said Province or Territory of the Massachusetts' Bay, and their successors, all that part of New England, in America, . . . and all the lands and hereditaments whatsoever, lying within, (here the limits of Massachusetts Proper and of the ancient Province of Maine are described,) and also the lands and hereditaments lying and being in the Country or Territory commonly called Acadia, or Nova Scotia; and all those lands and hereditaments lying and extending between the said Country or Territory of Nova Scotia, and the said River of Sagadahock, (the Eastern Boundary of ancient Maine,) or any part thereof; . . . Provided also that it shall and may be lawful for the said Governor and General Assembly, (of the Province erected by this Charter,) to make or pass any grant of lands lying within the bounds of the colonies formerly called the Colonies of the Massachusetts' Bay, and New Plymouth and Province of Maine, in such manner as heretofore they might have done by virtue of any former Charter or letters patents; which grants of lands within the bounds aforesaid, we do hereby will and ordain to be and continue forever of full force and effect, without our further approbation or consent; and so as, nevertheless, and it is our royal will and pleasure, that no grant or grants of any lands lying or extending from the River of Sagadahock to the Gulf of St. Lawrence and Canada Rivers, and to the main Sea northward and eastward, to be made or passed by the Governor and General Assembly of our said Province, be of any force, validity, or effect, until we, our heirs and successors, shall have signified our or their approbation of the same."

It must be observed that, according to that Charter, both Nova Scotia and the territory between it and the River Kennebec (or Sagadahock) extended on the north as far as the River St. Lawrence; and that grants of land made in either, by the Governor and General Assembly of the province, required the approbation of the King; so that, in order to be valid, such grants required both his consent and that of the Provincial Government.

No other reason can be assigned for having thus annexed to the Province of Massachusetts, Nova Scotia, or Acadia, which had been restored to France by the treaty of Breda, than the state of war existing between the two countries, in the year 1691,

(*b*) Written Evidence, No. 12.

(*c*) Written Evidence, No. 12.

(*d*) Written Evidence, No. 13.

when that Charter was granted. Great Britain, however, agreed by the treaty of Ryswick, of 20th September, 1697, to restore to France "all countries, islands, forts, and colonies, wheresoever situated, which the French did possess before the declaration of war." (e) Aedíá, or Nova Scotia, being clearly embraced by those expressions, and being thus severed from the British Dominions, the clause of the Massachusetts' Charter which annexed that territory to Massachusetts, was virtually repealed, and became a nullity. The understanding of the British Government of the extent of that restitution, will be found in the following sentence of a letter from the Lords of the Board of Trade, dated 30th October, 1700, to the Earl of Bellamont, the Governor of Massachusetts, viz: "As to the Boundaries, we have always insisted, and shall insist, upon the English right, as far as the River St. Croix." (f)

France having, by the 12th article of the treaty of Utrecht, of 1713, ceded to Great Britain "All Nova Scotia or Aedíe, with its ancient Boundaries," (g) that Province was not reannexed to Massachusetts' Bay, from which it had been severed by virtue of the Treaty of Ryswick: but it was erected by the British Government into a separate Province. Richard Phillips was its first Governor, and he is, in his Commission, dated the 11th of September, 1719, designated as "Captain General and Governor in Chief in and over our Province of Nova Scotia or Aedíe in America," without any description of the limits of the Province. The same style, and without any designation of its Boundaries, is preserved in the subsequent Commissions of the Governors of Nova Scotia, till the year 1763. (h)

The territory lying between Nova Scotia and the River Sagadahock (or Kennebec) remained a part of Massachusetts' Bay according to its Charter. A question arose, however, some years afterwards, in that respect, which having been referred to the Law Officers of the Crown, (the Attorney and Solicitor General,) they gave it as their opinion, (dated August 11th, 1734,) That all the tract of land lying between the Rivers of Kennebec and St. Croix, is granted by their Charter to the inhabitants of the said Province; that the rights of Government granted to the said Province extend over this tract of land: That it does not appear that the inhabitants of the said Province have been guilty of any such neglect or refusal to defend this part of the Country, as can create a forfeiture of that subordinate right of Government of the same, or of such property in the soil, as was granted to them by the said Charter: That if the Province had incurred any forfeiture in the present case, no advantage could be taken thereof, but by a legal proceeding, by *seire facias* to repeal their Charter, or by inquisition finding such forfeiture: That the said tract of Country, not having been yielded by the Crown of England to France by any treaty, the conquest thereof by the French created (according to the Law of Nations) only a suspension of the property of the former owners, and not an extinguishment of it: and that upon the reconquest of it, by General Nicholson, all the ancient rights, both of the Province and of private persons, subjects of the Crown of Great Britain, did revive and were restored *jure postliminii*. Whence they conclude that the said Charter still remains in force, and that the Crown hath not power to appoint a particular Governor over this part of the Province, or to assign lands to persons desirous to settle there; nor can the Province grant these lands to private proprietors without the approbation of the Crown, according to the Charter. (i)

The questions thus at that time agitated, were presumed, till the year 1763, to have been put at rest by that opinion. In Mitchell's map, published in the year 1755,

(e) Written Evidence, No. 7.

(f) Written Evidence, No. 14.

(g) Written Evidence, No. 7.

(h) Written Evidence, No. 15.

(i) Written Evidence, No. 16.

the River St. Croix, and a due north line from its source to the River St. Lawrence, are, accordingly, made the Boundary between Nova Scotia and New England; (*k*) embracing, under this last designation, the eastern part of Massachusetts, by the name of Sagadahock. Both Nova Scotia and New England are, in that map, published with the approbation of the Board of Trade, bounded to the north by the River St. Lawrence. (*l*) And that river continued accordingly, to be the northern Boundary of both, till the 7th of October, 1763; when Canada, and all the possessions claimed by France in that quarter, having, by virtue of the treaty of peace of February, 1763, been definitively ceded by her to Great Britain, (*m*) His Britannic Majesty issued a proclamation establishing new Governments, and, amongst others, that of Quebec.

The Boundaries of that Government were, by the said proclamation, fixed as follows: "Bounded on the Labrador Coast by the River (*n*) St. John; and from thence, by a line drawn from the head of that river, through the Lake St. John, to the south end of the Lake Nipissing, from whence the said line, crossing the River St. Lawrence and the Lake Champlain, in forty-five degrees of north latitude, passes along the Highlands which divide the rivers that empty themselves into the said River St. Lawrence from those which fall into the Sea, and also along the north coast of the Bay des Chaleurs and the coast of the Gulf of St. Lawrence, to Cape Rosiers; and from thence, crossing the mouth of the River St. Lawrence, by the west end of the Island of Anticosti, terminates at the aforesaid River St. John." (*o*)

The highlands therein designated, being assigned as the southern Boundary of the Province of Quebec, became the northern Boundary of Nova Scotia; the north-west corner of which, instead of being, as heretofore, on the bank of the River St. Lawrence, was thereby placed on the said Highlands.

The Boundaries of the Province of Quebec were enlarged in another quarter by the act of Parliament of 11th Geo. III. Chap. 83. (1774) commonly called the Quebec Act. But those adjacent to Nova Scotia and Massachusetts were, by that act, defined in words nearly similar to those used in the proclamation of 1763, viz:

"That all the Territories, Islands, and Countries in North America, belonging to the Crown of Great Britain, bounded, on the south, by a line from the Bay of Chaleurs along the Highlands which divide the rivers that empty themselves into the River St. Lawrence from those which fall into the sea, to a point in forty-five degrees of northern latitude, on the eastern bank of the river Connecticut, keeping the same latitude directly west through the lake Champlain, until, in the same latitude, it meets the River St. Lawrence, from thence, &c. . . . be, and they are hereby, during his Majesty's pleasure, annexed to, and made part and parcel of the Province of Quebec, as created and established by the said Royal Proclamation, of the 7th of October, 1763."

"Provided always, that nothing herein contained, relative to the Boundary of the Province of Quebec, shall, in any wise, affect the Boundaries of any other Colony." (*p*)

According to the received doctrine, and which is sustained by the Law Officers of the Crown, in their opinion of August 11th, 1731, the King could not, without pro-

(*k*) New England is the well known ancient generic name of the British Provinces lying east of New York, and west of Nova Scotia: The old Province of Maine, as well as the tract of land between it and Nova Scotia, are, by the Charter of Massachusetts² Bay, declared to be in New England.

(*l*) Jeffery's Map of Nova Scotia, published also in 1755, agrees, in that respect, with that of Mitchell, though they appear to differ as to the Boundary between New England and Nova Scotia. See Topographical Evidence, Printed Maps, No. 46.

(*m*) Written Evidence, No. 7.

(*n*) Not the River of the same name which falls into the Bay of Fundy, but the smaller stream already alluded to, which, from the north, falls into the mouth of the River St. Lawrence.

(*o*) Written Evidence, No. 17.

(*p*) Written Evidence, No. 18.

cess of Law, and by his mere proclamation of October 7th, 1763, curtail the chartered Boundaries of the Province of Massachusetts' Bay. But, without discussing that point, it will, for the present, be sufficient to observe, that the proviso in the Quebec Act was not applicable to Nova Scotia, which was a Royal Province, and the Boundaries of which might, so far as it was alone affected, be altered at the King's pleasure, but that, as applied to that part of Massachusetts' Bay which lay east of Kennebec River, its effect was to leave or reinstate the river St. Lawrence, as the northern Boundary of that Province.

The Quebec Act and the Proclamation of 1763, have a direct bearing on the question now at issue between the two Governments.* But before comparing those two instruments, one with the other, and both with the treaty of 1783, it will be more convenient to conclude what remains to be observed in relation to the eastern Boundary of Massachusetts.

Notwithstanding the confirmation, subsequent to the treaty of Breda, of the grant to the Duke of York; notwithstanding the opinion expressed in the letter from the Board of Trade to the Governor of Massachusetts, of 30th October, 1700, of the extent of the cession made by the treaty of Ryswick; and notwithstanding the opinion of the Law Officers of the Crown, of August 11th, 1731; the attempt to dispute the right of Massachusetts, at least to the country lying east of Penobscot, was again renewed immediately after the treaty of peace between Great Britain and France, of 1763.

The Province of Massachusetts having made a grant to Governor Bernard, of an Island lying east of the river Penobscot, and which required the confirmation of the Crown, the Board of Trade, in a letter of March 11th, 1763, to the Governor, say:

"It may be proper to observe to you, that the doubt conceived upon the claim of the Province of Massachusetts, is not founded upon the allegation that the lands to the east of Penobscot, were not in possession of the Crown at the time of granting the Charter, but upon the operation which the treaties of Ryswick and Breda, (by which treaties, this tract of country was ceded to France,) should be admitted to have had upon the Charter itself.

"We cannot take upon us, at present, to say how far all future consideration of this question is precluded by the order of Council, grounded upon the opinion of the Attorney and Solicitor General in 1731; this is a delicate point, which should be reserved till the deed shall come regularly before us; and, in the mean time, we cannot think it expedient to advise any conditional grant whatever of this Island." (g)

On the same ground, saving clauses were annexed to the description of the Boundaries of the Province of Nova Scotia, inserted in the Commission of Montague Wilmot as Governor of Nova Scotia, which bears date the 21st of November, 1763, in the following words, viz: our Province of Nova Scotia, "and which we have thought proper to restrain and comprise within the following limits, viz:" and to the westward, "although our said Province has anciently extended, and doth of right extend, as far as the River Pentagoet or Penobscot," it shall be bounded, &c. (r)

The object of that attempt is explained in a letter from Jasper Mauduit, agent in England for Massachusetts' Bay, to the General Court of that Province, dated 9th June, 1764. In that letter the agent states from authority, confirmed by a subsequent

(g) Written Evidence, No. 19.

(r) The words here quoted, are, however, omitted in all the subsequent Commissions, including that of John Parr, (dated 29th July, 1782,) who was Governor at the date of the treaty of 1783. The Boundaries prescribed are the same in all the Commissions. See Written Evidence, No. 15.

interview with Lord Hillsborough, that if the Province will pass an act empowering their agent to cede to the Crown all pretence of right or title, they may claim under their Charter, to the lands on the River St. Lawrence, destined by the Royal Proclamation to form part of the Government of Quebec, the Crown will then waive all further dispute concerning the land as far as St. Croix, and from the Sea Coast of the Bay of Fundy, to the Bounds of the Province of Quebec: reserving only to itself the right of approbation, as before." (s)

Mr. Mauduit urges an acquiescence with that proposal, principally on the ground that the *narrow* tract of land which lay beyond the sources of all the Rivers of Massachusetts, and was watered by those which run into the River St. Lawrence, could not be an object of any great consequence to Massachusetts; though it was absolutely necessary to the Crown, to preserve the continuity of the Government of Quebec.

It is not at all necessary, or intended to discuss, at this time, the respective rights or pretensions of the parties on a subject which has been definitively settled. But it must be observed, that as, according to the Charter of Massachusetts' Bay, her territory was acknowledged to extend from the River Sagadahock (or Kennebec) to the River and to the Gulf of St. Lawrence, only, northward and eastward, the narrow tract of land, watered by the rivers running into the River St. Lawrence, embraced by the Charter, and which was necessary to the Crown, could not lie westward, but lay due north of the territory between Kennebec and St. Croix. That narrow tract, which extends along the banks of the St. Lawrence, from the River Ouelle to the River Metis, or thereabout, was not wanted by the Crown, in order to establish a communication between Canada and Nova Scotia, but to preserve that of Quebec with the District of Gaspé, and thereby the continuity of the Government of Quebec. And as this object was to be effected by obtaining the assent of Massachusetts to the Boundary prescribed by the Proclamation of 1763, it necessarily follows, that the Highlands contemplated by the Proclamation as forming the southern Boundary of the new province of Quebec, lay, not only west of the Sagadahock, but north of the territory lying between that river and the St. Croix.

Although the public attention was, at that time, diverted from that subject by the events of much greater importance, which terminated in a dissolution of the connection between the two countries, the final adjustment was precisely that which had been suggested in Mr. Mauduit's communication. By the treaty of 1783, the British Government abandoned its pretensions to any territory lying west of the River St. Croix, and the United States ceded that tract of land, included within the Chartered Boundaries of Massachusetts which is watered by the rivers that fall into the River St. Lawrence.

§ 3

The Ancient Boundaries confirmed by the Treaty.

The line agreed on by the treaty of 1783, so far as it is the common Boundary between Nova Scotia and Massachusetts, is a conclusive proof of the intentions of the Contracting Parties. It has already been shewn that the intention on the part of the United States, was to establish the chartered Boundaries of Massachusetts, and that their Ministers had ultimately agreed in the opinion that the river St. Croix was that

Boundary. On the part of Great Britain, the intention is still more completely established, since the description of the treaty Boundary is there evidently borrowed, almost verbatim, from that which, for the twenty preceding years, had been assigned by the British Government to Nova Scotia. The limits thus prescribed for that province, are as follows, viz:

“ Bounded on the westward by a line drawn from Cape Sable across the entrance of the Bay of Fundy, to the mouth of the River St. Croix, by the said river to its source, and by a line drawn due north from thence to the southern Boundary of our Colony of Quebec, to the northward by the said Boundary, as far as the western extremity of the Bay des Chaleurs, to the eastward by the said Bay and the Gulf of St. Lawrence, to the Cape or Promontory called Cape Breton, in the island of that name, including, &c. . . . and to the southward by the Atlantic Ocean, from the said Cape to Cape Sable aforesaid, including,” &c. (t)

The River St. Croix, from its mouth to its source, is declared by the treaty to be the eastern Boundary of the United States; and it had, for twenty years, been the legal western Boundary of the British Province of Nova Scotia.

From the source of that river, the eastern Boundary of the United States is declared, by the treaty, to be a due north line to the Highlands which divide the rivers that fall into the Atlantic Ocean, from those which fall into the river St. Lawrence.

The western Boundary of Nova Scotia, had, since November, 1763, been a line drawn due north from that source, to the Southern Boundary of the Colony, (Government or Province,) of Quebec. And the southern Boundary of this Province, had, since October, 1763, been, by the King's proclamation, declared, and, at the date of the treaty of 1783, (u) continued to be “ the Highlands which divide the rivers that empty themselves into the said river St. Lawrence, from those which fall into the Sea.”

The north-west angle of Nova Scotia, which is necessarily formed by the intersection of the western and northern Boundaries of that province, had, therefore, been declared by His Britannic Majesty, as early as the year 1763, and continued, at the date of the treaty of 1783, to be formed by the intersection of a line drawn due north from the source of the river St. Croix, with the Highlands which divide the rivers that empty themselves into the said River St. Lawrence, from those which fall into the Sea.

It could have been only in reference to that angle, thus precisely described, that the north-west angle of Nova Scotia was at all mentioned in the treaty of 1783. Unless this had been the object, the description would have been as complete without as with the mention of that angle. Whether the place of beginning was, or was not the north-west angle of Nova Scotia, was, unless for the sake of reference to a point previously designated, wholly foreign to the object of the treaty.

The western Boundary of Nova Scotia being, at the same time, the eastern Boundary of the United States, and one which had been a subject of contest, came within the scope of the treaty. It was, therefore, necessary to define it with precision; and, adopting the Boundary already assigned by the King to the province of Nova Scotia,

(t) John Parr's commission, dated 29th July, 1782, which compare with Montague Wilmot's of 21st November, 1763, and the intervening Commissions. It is worthy of notice that John Parr's Commission bears date only four months prior to the preliminary articles of November 30th, 1782, and of course was granted pending the negotiations for peace. Written Evidence, No. 15.

(u) See the commissions of the several Governors of Quebec, James Murray, in 1763; Guy Carleton, in 1768, and December, 1774; and Frederick Haldimand, in 1778. In the two first, the descriptive words of the Boundary are taken from the Proclamation of 1763; and in the two last, from the Quebec Act. See Written Evidence, No. 21.

the eastern Boundary of the United States was declared in the treaty to be the river St. Croix, and in a line drawn due north from its source. But the northern Boundary of Nova Scotia, the other line which formed the north-west angle of that Province, was not one of the Boundaries of the United States. It was the Boundary between Nova Scotia and the other dominions of Great Britain in that quarter; a Boundary which depended on the acts of Great Britain alone, which it could not be the object of the treaty to determine, and to which no allusion could have been made, but for the express purpose of referring to a line previously determined, and the position of which was sufficiently understood, although the interior of the country had not been explored.

Had not that been the object—had not the north-west angle of Nova Scotia been a point already prescribed, and, as such, understood by both parties, no reference would have been made to it in the treaty, since the description of the Boundary would, without it, have been as complete and intelligible by defining it as follows, viz: “East by a line to be drawn along the middle of the River St. Croix, from its mouth, in the Bay of Fundy, to its source; and from its source, directly north, to the aforesaid Highlands, which divide the rivers that fall into the Atlantic Ocean from those which fall into the River St. Lawrence; and thence, along the said Highlands which divide, &c. to the north-westernmost head of Connecticut River.”

The only object, therefore, which could have been had in view, in mentioning the north-west angle of Nova Scotia, in the treaty, was, and the necessary effect of having thus inserted those words, is, to identify the Highlands described and contemplated by the proclamation of 1763, and the Quebec Act of 1774, as the southern Boundary of the Province of Quebec, with the Highlands contemplated and declared by the treaty of 1783, as forming, on the north, the said north-west angle of Nova Scotia, and being thence the Boundary of the United States, to the north-westernmost head of Connecticut River.

Further proofs, if such indeed are necessary, may be found in other parts of the proclamation of 1763, and in the Quebec Act of 1774, of the intentions of the framers of the treaty of 1783; and that they kept constantly those two instruments in view, whenever they were applicable or did not relate to an object which was strenuously contested.

This last exception applies only to that part of the Quebec Act, which annexed to the Province of that name, the whole country lying between Pennsylvania and the Mississippi, as far south as the River Ohio. This had been and was considered, on the part of the United States, as an encroachment on the Charters and territorial rights of Virginia and other Colonies. (e) It had been provided, in the act itself, that nothing therein contained should, in any wise, affect the Boundaries of any other Colony; and the great Lakes, from Lake Erie to that of the Woods, were ultimately agreed on by the treaty of 1783, as the Boundary between the dominions of the two Powers in that quarter. The Mississippi, which, by the treaty, was declared to be the western Boundary of the United States, was not a Boundary with Great Britain, but with the Dominions of Spain.

In every other respect the treaty Boundary accords with that of the Quebec Act, or of the Proclamation. From Connecticut River to Lake Erie, it is the same as the southern Boundary of the Province of Quebec in the Quebec Act, substituting the middle of the River St. Lawrence (or Iroquois,) to its eastern bank. From the River Mississippi, in the latitude of 31 degrees north of the equator, the southern Boundary of the United States is declared, by the treaty, to be a line to be drawn

(e) See Secret Journals of Congress, Vol. 3 Report of a Committee, made on the 16th August, 1782, page 161, and following. Written Evidence, No. 8.

thence due east, to the middle of the River Apalachicola or Catahouche ; thence along the middle thereof, to its junction with the Flint River ; thence straight to the head of St. Mary's River, and thence down along the middle of St. Mary's River, to the Atlantic Ocean. That Boundary is precisely the same with that which, by the Proclamation of 1763, had been assigned as the Northern Boundary of Florida, and is described therein as follows, viz.

"The Government of West Florida, bounded to the northward by a line drawn east from that part of the River Mississippi which lies in 31 degrees north latitude, to the River Apalachicola, or Catahouchee."

"The Government of East Florida, bounded to the westward by the Apalachicola River ; to the northward, by a line drawn from that part of the said river where the Catahouchee and Flint Rivers meet, to the source of St. Mary's River, and by the course of the said river, to the Atlantic Ocean." (w)

The variations between the three instruments, so far as they may affect the part of the Boundary now under consideration, remain to be examined.

The description of the Boundary line formed by the Highlands, and thence to the river Iroquois or St. Lawrence, is respectively expressed in the following words, viz :

| <i>Proclamation of 1763.</i> | <i>Quebec Act of 1774.</i> | <i>Treaty of 1783.</i> |
|---|--|---|
| The line crossing the River St. Lawrence and the Lake Champlain, in 45 degrees of north latitude, passes along the Highlands which divide the rivers that empty themselves into the said River St. Lawrence, from those which fall into the Sea ; and, also, along the north coast of the Bay des Chaleurs. | A line from the Bay of Chaleurs, along the Highlands which divide the rivers that empty themselves into the River St. Lawrence from those which fall into the Sea, to a point in 45 degrees of north latitude, on the eastern bank of the River Connecticut, keeping the same latitude directly west through the Lake Champlain, until, in the same latitude, it meets the River St. Lawrence, &c. | From the north-west angle of Nova Scotia, viz : That angle which is formed by a line drawn due north from the source of the St. Croix river to the Highlands, along the said Highlands which divide those rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River ; thence down along the middle of that River to the 45 degree of north latitude ; from thence, by a line due west, on said latitude, until it strikes the river Iroquois or Cataraquy, &c. |

The portion of the Boundary of the Province of Quebec, along the Bay des Chaleurs, and thence as far west as Nova Scotia extended, is no part of the Boundary of the United States. It is referred to in the treaty, only as forming the north-west angle of Nova Scotia, and not otherwise described than by the general expression of "Highlands dividing the rivers," &c. The description of the Boundary of the United States could only begin, and commences accordingly, at the north-west angle of Nova Scotia.

The rivers intended to be divided, or contra-distinguished, from those emptying themselves into the River St. Lawrence, are defined, in the Proclamation of 1763, and in the Quebec Act, as falling into the Sea ; and, in the treaty, as falling into the Atlantic Ocean.

The word "Sea" is more comprehensive than the words "Atlantic Ocean," not as including Bays or Gulfs, which are parts of the said Ocean, but because it also

(w) Hence the reference to East Florida in the last sentence of the treaty, though the name of that Province had not been previously mentioned.

embraces the Pacific, Indian Oceans, and other great subdivisions which are no part of the Atlantic. And as none of those great subdivisions of the Sea, save the Atlantic Ocean, has any connexion with the subject matter of the Proclamation, of the Quebec Act, or of the Treaty; as no other but the Atlantic lies adjacent to the Countries designated in those three instruments, the words "Sea" and "Atlantic Ocean" are used there in the same sense.

Indeed, since it has been demonstrated that the Highlands contemplated and described by the Proclamation of 1763, and by the Quebec Act, viz: the Highlands which divide the rivers that empty themselves into the River St. Lawrence from those which fall into the Sea, are the identical Highlands contemplated and described in the treaty of 1783, viz: the Highlands which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, it necessarily follows that the words "Atlantic Ocean" in the treaty, have precisely the same meaning with the word "Sea" in the Proclamation and in the Quebec Act.

And what will altogether remove any possible doubt, in that respect, is that the two expressions are used as synonymous in the Proclamation itself, and that, too, with respect to rivers falling into the Sea or Atlantic Ocean.

One of the provisions of the Proclamation declares it to be the Royal will, that "No Governor, &c. of our other Colonies or Plantations in America, &c. do presume, &c. to grant warrants of survey, or pass patents for any lands beyond the heads or sources of any of the rivers which fall into the *Atlantic Ocean from the west or north-west*," &c. And the Proclamation then proceeds to declare that the King does reserve under his sovereignty and dominion, for the use of the Indians, "all the lands and territories lying to the westward of the sources of the rivers which fall into the *Sea from the west and north-west as aforesaid*," &c.

There is, however, between the three instruments, a difference which, in one particular, alters the boundary and requires to be explained.

According to the Proclamation, the line, after crossing Lake Champlain, in 45 degrees of north latitude, passes along the Highlands which divide the rivers, &c. The line, therefore, in order to divide from Lake Champlain, eastward, all the rivers intended to be divided, would have proceeded due east, to the first source of any of the tributary streams of Connecticut River, and would then have passed along the Highlands, so as to leave all the branches of that river on the right hand, and thus divide them from the rivers falling into the River St. Lawrence.

The River Connecticut having, by an order in council of the year 1764, (x) been declared to be the Boundary between the Provinces of New York and New Hampshire, as far north as the 45th degree of north latitude, that parallel, from the Connecticut to the St. Lawrence, was agreed on as the Boundary Line between the Provinces of New York and Quebec. That agreement having been confirmed by an Order in Council of 12th August, 1768, (y) the southern Boundary of the Province of Quebec was, by the Act of 1774, declared to be, from east to west, along the Highlands which divide the rivers, &c. to a point in 45 degrees of north latitude, on the eastern bank of the River Connecticut, and thence, along that parallel, to the River St. Lawrence.

There was a defect in that description. Highlands dividing rivers flowing in opposite directions, could not strike one of those rivers, the Connecticut, at a point below its sources. The line, if defined only as dividing such rivers, must stop at their sources. There was, therefore, a chasm between those sources; between the

(x) Written Evidence, No. 22.

(y) Written Evidence, No. 26.

Highlands and the point in 45 degrees of north latitude, on the eastern bank of Connecticut River, described in the Quebec Act.

This defect is provided for in the treaty, by declaring that the line along the dividing Highlands shall extend only to the north-westernmost head (or source) of the River Connecticut, and that the Boundary shall thence be down along the middle of that river, to the 45th degree of north latitude.

It may be here observed that this alteration affords another proof, that the essential part of the description of the Boundary consists in that the line shall divide the rivers so as to pass between their sources, and without crossing in any instance any river or branch thereof. The country, between the sources of the Connecticut River, and the place where that river crosses the 45th degree of north latitude, might be generally as mountainous, and as elevated as the dividing Highlands meant by the treaty, but it was no part of those Highlands, because it did not divide the rivers emptying themselves into the River St. Lawrence from any other river. From the point where the line ceased to be on the Highlands in which the rivers falling into the St. Lawrence take their sources, it ceased to be on the Highlands described by the treaty; and it became necessary, in order to prevent a chasm in the perambulation, to define, by a distinct provision, how the line was to proceed from that point, from the Highlands of the treaty to the point in the 45th degree of latitude, on the bank of the River Connecticut.

It has been clearly shewn, from the progress of the negotiations, from the various emphatic expressions and references to be found in the treaty, and from the coincidence of the Boundaries therein designated with those of the former and remaining British Provinces, that the avowed intention of the framers of the treaty of 1783 was, at least in relation to that now under consideration, to confirm ancient and known, and not to establish new Boundaries; and that, with respect both to the north-west angle of Nova Scotia, and to the Highlands dividing certain rivers, they had specially in view the Charter of Massachusetts, the Proclamation of 1763, and the Quebec Act of 1774, (by which the southern Boundaries of the Province of Quebec had been defined,) and the legal limits assigned to Nova Scotia by the Commissions of the Governors of that Province. It is impossible to deny the identity, either of the north-west angle, and of the western Boundary of Nova Scotia, as established by those Commissions, with the same angle as mentioned in, and with the eastern Boundary of the United States as designated by, the treaty; or of the Highlands prescribed by the Proclamation of 1763, and by the Quebec Act, as the southern Boundary of the Province of Quebec, with the Highlands, which, in conformity with the treaty of 1783, and with the commissions aforesaid, form the northern Boundary both of the United States, in that quarter, and of Nova Scotia.

§ 4.

Coincidence of the American Line with the Ancient established Boundaries.

This real intention of the parties to the treaty of 1783 being thus made apparent, and manifestly flowing from the treaty itself, is alone sufficient to dissipate those arguments by which it has been, and may still be, attempted to substitute, to the clear and explicit expressions of the treaty, certain presumed intentions, gratuitously ascribed to the negotiators, and for which no pretence can be found in any of the provisions of the treaty. This is not one of the least reasons why it has been deemed necessary to establish beyond doubt, what were their true intentions.

But if it be permitted to seek for those intentions elsewhere than in the language of the treaty, it also follows that they must be found, not in the relative

situation of the Contracting Powers, in the year 1783, when the ancient line was confirmed, but in the object which the British Government must have had in view, in the year 1763, when the southern Boundary of the Province of Quebec, such as it was confirmed by the treaty of 1783, such as it still continues to be to this day, was first established.

The sole object of the Proclamation of 1763, is, in that respect, what it professes to be, viz: to provide generally for the government of the valuable acquisitions secured to Great Britain by the late treaty with France, and specially for that of Canada, by assigning proper Boundaries to the Province of Quebec, which is erected with that view. Nothing more was necessary for that purpose than to include within those limits, the French inhabitants known to have been, till the conquest of Canada, under its Government. It was sufficient, in order to effect that object, to include within the new Province the whole Country below Quebec, and nothing more than the country which is watered by the tributary streams of the River St. Lawrence, or what Geographers call the basin of that river. The Ridge, or by whatever other name called, in which those tributary streams have their sources, was not only a natural, but the most natural Boundary which presented itself. By deviating from its eastern extremity, so as to make the Bay des Chaleurs the Boundary in that quarter, and thereby embrace the Gaspé settlements, all the French inhabitants were included. This was the only purpose that could then have been intended. The communication between Quebec and Nova Scotia, by the means of the River St. John, was wholly foreign to the determination of the Boundaries of the new Government, since, in the year 1763, when Massachusetts was part of the British Empire, it was quite immaterial to Great Britain through which of her Provinces such communication should pass.

Viewing thus the dividing ridge, in reference to the Boundaries of Canada, and to the River St. Lawrence, another reason why it was designated by the name of Highlands suggests itself, which is independent of the propriety of that appellation, either as a general term applicable to any ground which divides rivers, or as a technical expression used in Canada and New England for that special purpose, and as synonymous with "height of land" and "hauteur de terre." (z)

The distance from the mouth of the river St. John to the sources of those of its tributary streams which flow from the said ridge, is more than 200 miles in a straight line. From a short distance below Quebec to its eastern extremity, the ridge is rarely more than 20, and, in some places, not above 15 miles distance from the River St. Lawrence. In ascending the River St. John from its mouth to its sources, the country becoming gradually more and more elevated, the relative and apparent elevation of the ridge lessens in proportion as it is approached. When seen from some places on the upper branches of the St. John, it may, perhaps, occasionally appear not much higher than the adjacent country; whilst, on account of its rapid descent towards the River St. Lawrence, its whole elevation and mountainous aspect may be seen from vessels sailing on that river. Attracting their notice, it is highly probable that according to the general practice of navigators in similar cases, it received from them the name of Highlands, which they so uniformly give, without reference to absolute elevation, to the land first seen from the sea, or often seen alone, when sailing along a shore which is comparatively low, and may yet remain invisible. (a)

(z) See M^r Kenzie, Henry, Bouchette, Pownall and printed maps—passim.

(a) Mount St. Francis, which at the Grand Portage divides the rivers, and is a part of the ridge, is 1037 feet above the level of the Sea, according to Captain Patridge's barometrical observations. Supposing this to be the average elevation of the ridge, as far eastward as the source of the River Metis, it must be a conspicuous object and have the appearance of a continuous chain, when viewed from the river St. Lawrence, but at the sources of the *Claudiere* and of the *Metis* the ridge is still more elevated.

But it is not to probabilities and conjectures that the United States are compelled to resort in order to sustain their case. The identity of the Highlands, contemplated by anterior authentic acts, emanating from the British Government, with the Highlands described by the treaty of 1783, having been conclusively established, if it can be shewn that the Highlands described by those British Acts, must necessarily have been intended, and were universally understood, to be the identical Highlands now contended for by the United States as their Boundary, under the treaty of 1783, the claim of the United States will be established beyond contradiction, and every doubt in relation to the Highlands intended, be removed.

The situation and direction of the intended Highlands are determined, so as to admit of no doubt, by the mention made of the Bay des Chaleurs, in those several acts of the British Government.

According to the Proclamation of 1763, the line passes along the Highlands which divide the rivers, &c. and also along the north coast of the Bay des Chaleurs.

By the Quebec Act of 1774, the Province of that name is bounded on the south, by a line from the Bay of Chaleurs along the Highlands which divide the rivers, &c. to the Connecticut River.

In conformity with the commissions of the Governors of Nova Scotia, from the year 1763 to the date of the treaty of 1783, that province is bounded to the northward, by the southern Boundary of the Colony or Province of Quebec, as far as the western extremity of the Bay des Chaleurs; and to the eastward, by the said Bay and the Gulf of St. Lawrence.

A straight line drawn on Mitchells' map, from the western extremity of Bay des Chaleurs to the sources of the Connecticut River, is nearly parallel to the course of the River St. Lawrence; and, though cutting off some of the sources of the Ristigouche and of the St. John, almost coincides with the dividing Highlands. A mere inspection of that map will satisfy every impartial observer that the mention of the Bay des Chaleurs determines the course and situation of the Highlands; that, within a few miles from the western extremity of that Bay, the Highlands, in which the Rivers emptying themselves into the St. Lawrence, have their sources, are reached; and that the southern Boundary of the Province of Quebec, was clearly intended to extend thence along those Highlands which divide the tributary streams of the River St. Lawrence, from the sources of the rivers that fall into the Gulf of St. Lawrence, of the St. John, of the Penobscot, of the Kennebec, and of the Androscoggin, to the Connecticut River.

If, on the contrary, the supposition is admitted that the southern Boundary of the Province of Quebec was intended to pass south of the River St. John, so as to form, at its intersection with the line drawn due north from the River St. Croix, the north-west angle of Nova Scotia, the contemplated Boundary along the Highlands must have extended from that angle to the Bay des Chaleurs. On that supposition, the Boundary line, instead of dividing any rivers from other rivers, and of being along any Highlands, whatever, must, from the western extremity of the Bay des Chaleurs, have crossed all the rivers that empty into the Gulf of St. Lawrence and the main St. John River, to some point south of that river, on the line drawn due north from the source of the River St. Croix: And it would thence have extended to the source of the River Chaudiere, which falls into the River St. Lawrence, without dividing any other rivers than the tributary streams of the River St. John from some other branches of the same river, and from the waters of the Penobscot and of the Kennebec.

The distance from the western extremity of the Bay des Chaleurs to the nearest source of the Chaudiere, is, by Mitchell's map, about 250 miles, and from that source of the River Chaudiere, to the River Connecticut, about 90 miles. To say, therefore,

that the southern Boundary of the Province of Quebec was intended, according to the Acts of the British Government, to run in the manner and direction last stated, implies the monstrous supposition, that that Government, in designating the said southern Boundary, adopted a definition wholly inapplicable to near three-fourths of the Boundary which they intended to prescribe. (*b*)

Such a supposition was too repugnant to common sense to be adopted at a time when there was no motive to deviate from the obvious meaning of the Proclamation of 1763, and of the other acts of the British Government. It was, therefore, the universal understanding, as late, at least, as the year 1783, that the Southern Boundary of the Province of Quebec was along, and no further south than the Highlands in which the tributary streams of the River St. Lawrence have their sources, and which divide those streams from the upper branches of either the rivers that fall into the Gulf of St. Lawrence, the river St. John, or any of the other rivers that fall into the Atlantic Ocean, to the Connecticut River.

The maps published since the treaty of 1783 may bear the marks of partiality, and have been modified in conformity with the pretensions of either party. No such bias could affect those that were published in Great Britain between the years 1763 and 1783. There was no motive that could influence Geographers to deviate from the true and obvious meaning of the acts of Great Britain which had established the Boundaries of her new and old Provinces. A solitary map, even though belonging to that epoch, contradicted, perhaps, by others, would be no authority. But if all the maps published in England, during that period, and in which the Boundaries of the Province of Quebec, as established by the acts of Great Britain, are delineated, (*c*) do agree in that respect, it will be a conclusive proof that the meaning of the acts, in reference to that Boundary, was so clear and obvious that they were universally understood in the same manner.

All the maps of that period, on which the southern Boundary of the province of Quebec is laid down, and which, after a diligent search, both in England and America, have been obtained, accompany this Statement. (*d*) Some maps may have escaped notice, but not a single one has been omitted that has come within the knowledge of the American Government.

The maps thus collected are the following, viz:

- No. 1. T. Kitchen's British Dominions in North America, &c. engraved for Dodsley's Annual Register of 1763.
2. T. Kitchen's British Dominions in North America, &c. engraved for Captain John Knox's History of the War in America, and annexed to his Historical Journal of the Campaigns in North America. London, 1769.
3. British Empire in North America, &c. annexed to Wynn's History of the British Empire, &c. London, 1770.
1. J. Palairé's North America, with Improvements, &c. by Delarochette. London, 1765.
5. J. Rudge's British Dominions in North America, &c. annexed to a complete History of the late War, &c. Dublin, 1766.

(*b*) Let it also be observed that the north-west angle of Nova Scotia must have necessarily been understood to be north of the main River St. John; since the western extremity of the Bay des Chaleurs, being more north-west than any point south of that river on the due north line from the source of the River St. Croix, would have been the north-west angle of Nova Scotia, had the southern Boundary of the Province of Quebec extended from the said western extremity to any point south of the main river St. John.

(*c*) This Boundary having been established only in 1763, could not be exhibited, and does not appear, in Mitchell's Map which was published in 1755.

(*d*) Topographical Evidence, Printed Maps.

6. North and South America, by the American Traveller, annexed to the "American Traveller," &c. London, 1769.
7. North America and West Indies, with the opposite Coasts, &c. London, 1775. (Jeffery's Atlas.)
8. North America improved from D'Anville, with divisions by P. Bell, engraved by R. W. Seale.—London, 1771.
9. P. Bell's British Dominions in North America, &c. 1772, annexed to "History of British Dominions in North America, &c. in fourteen books."—London, 1773.
10. S. Dunn's British Empire in North America.—London, 1774.—(Jeffery's Atlas.)
11. D'Anville's North America, improved with English Surveys, &c.—London, 1775.—(Jeffery's Atlas.)
12. E. Bowen and J. Gibson's North America, &c.—London, 1775.—(Two sheets, Jeffery's Atlas.)
13. Sayer and Bennett's Province of Quebec, &c.—London, 1776.—(Jeffery's Atlas.)
14. Seat of War in the Northern Colonies, &c.—London, 1776, annexed to the American Military Pocket Atlas.
15. North America, &c. corrected from the materials of Governor Pownall, M. P.—London, 1777.—(Jeffery's Atlas.)
16. Continent of America, &c. corrected from the materials of Governor Pownall.—London, 1777.
17. W. Faden's British Colonies in North America, 1777.
18. North America from the latest discoveries, 1778; engraved for "Carver's Travels."—London, 1778 and 1781.
47. T. Jeffery's Nova Scotia, &c.—London, 1775. (e)

The identity of the Highlands which form the southern Boundary of the Province of Quebec, with those which are claimed by the United States as their Boundary, will appear evident on the first inspection of those maps. It strengthens the proofs derived from them, that many differ from each other in several irrelevant particulars.

The River Penobscot is laid down, in some, as the western Boundary of Nova Scotia; in others, where the river called St. Croix is made the Boundary, the name is given to different rivers, to those now known as the Magaguadavic, the Seoddie, and the Cobcook. The course of the line drawn from the source of the St. Croix to the Highlands, is not the same in all, being generally due north, but, in some, west of north; and, in one instance, a crooked instead of a straight line.

That line, in most of the maps, crosses no other waters but those of the river St. John, and its tributary streams; (f) while, in others, it also crosses some upper branches of rivers that empty themselves into the Gulf of St. Lawrence. The Boundary from that line eastward, in some of the maps, reaches the Bay des Chaleurs, by passing north of, and leaving on the right, the river Ristigouche: in others, it extends along the dividing ridge, to the source of that river, which is represented as a short stream, and then down the same to the Bay.

But, in every instance, the course of the line from the source of the River St. Croix is northward; in every instance, that line crosses the River St. John, and terminates at the Highlands in which the rivers that fall into the river St. Lawrence have

(e) This map is the same with No. 46. with the difference only of the boundaries of the several Provinces which, in No. 47. are laid down, according to the Geographer's conception, in conformity with the Proclamation of 1763.

(f) This is also the case in Mitchell's Map.

their sources; in every instance, the north-west angle of Nova Scotia is laid down on those Highlands, and where the north line terminates; in every instance, the Highlands, from that point to the Connecticut River, divide the rivers that fall into the River St. Lawrence, from the tributary streams of the River St. John, and from the other rivers that fall into the Atlantic Ocean.

This universal understanding is easily accounted for. The description of the southern Boundary of the Province of Quebec, in the Acts of the British Government, was in that respect, like that of the Boundary of the United States by the treaty of 1783, expressed in terms so clear as to admit of no doubt, and to be susceptible of but one construction. What effect that universal understanding had on the framers of the treaty of 1783, will now be considered.

Mitchell's map is acknowledged, by both parties, to have regulated the joint and official proceedings of the framers of the treaty of 1783: and it has already been observed that the southern Boundary of the Province of Quebec, designated for the first time by the Proclamation of 1763, was not, and could not be, laid down on that map, which was published in the year 1755.

This acknowledgment is founded on the testimony of the American Negotiators, taken at the time when the question "what" was the true River St. Croix, had, by virtue of the treaty of 1794, been submitted to a Joint Commission. The deposition of John Adams states, that "Mitchell's map was the only map or plan which was used by the Commissioners at their public conferences, though other maps were occasionally consulted by the American Commissioners, at their lodgings." (g)

In a letter to Lieutenant Governor Cushing, of Massachusetts, of the 25th of October, 1784, when Mr. Adams's recollections on the subject were quite fresh, he writes: "*We had before us, through the whole negotiation, a variety of maps; but it was Mitchell's map upon which was marked out the whole of the Boundary Lines of the United States; and the River St. Croix, which we fixed on, was upon that map the nearest river to St. John's; so that, in all equity, good conscience, and honor, the river next to St. John's should be the Boundary.*" (g)

One of the maps annexed to this statement, (c. o. 12,) that of Emanuel Bowen, published in 1775, is specially quoted in the Report of the Committee of Congress of the 16th August, 1782, (h) and was therefore in possession of the American Government.

The fact of other maps having been consulted by the American Ministers, is sufficient proof of their knowledge of what was universally understood by the Highlands prescribed as the southern Boundary of the Province of Quebec. And it may be fairly inferred from the words, in the letter of Mr. Adams of October, 1784, "*We had before us, through the whole negotiation, a variety of maps,*" &c. that those maps were before the Joint Negotiators. Yet it may be insisted that it is not in proof that the British Commissioners were acquainted with any other map than that of Mitchell.

On the supposition that the British Government selected, for the purpose of treating with the American Commissioners respecting Boundaries, men who had never seen, and, on that occasion, did not examine any of the numerous maps of America published during the twenty next preceding years; on the supposition that those Negotiators had no knowledge of such familiar collections as Jeffery's American Atlas, or

(g) Written Evidence, No. 23. Though the remark may be superfluous, it may be observed that the fact of other maps having been consulted is mentioned by Mr. Adams for no particular purpose, and only in order to state the whole truth. The River St. Croix was, at that time, the only object of contention, and Mitchell's map was, in that respect, decisive in favor of the pretension of the United States, whilst several of the subsequent maps favored, as to that point, the British claim.

(h) Secret Journals of Congress, Vol. 3, page 190.

the American Military Pocket Atlas; on the supposition that having, almost throughout the treaty, adopted the Boundaries designated, and even the phraseology used in the Proclamation of 1763, they neglected to consult any of the maps in which the Boundaries were laid down in conformity with that Proclamation; on the supposition that the same unaccountable carelessness existed in the British Cabinet, to whom the case is proved to have been specially referred more than once; on these suppositions, but on these alone, may it be pretended that the British Negotiators were ignorant of the universal understanding respecting the southern Boundary of the Province of Quebec, and unaware of its connection with the Boundary established by the treaty of 1783. Even on such supposition, it has already been shewn, and further arguments might be adduced to the same effect, that Mitchell's map is sufficient to establish what Highlands were intended by the Proclamation of 1763, and by the treaty of 1783.

The Provisional Articles of Peace between Great Britain and the United States had been signed on the 30th of November, 1782. The Boundaries then agreed on are, without any alteration, the same as those of the definitive treaty concluded on the 3d day of September, 1783.

During the interval that elapsed between the signing of the preliminaries and of the definitive treaty, four maps of the United States were published in London, one of which, at least, (Bew's,) appears to have been intended as illustrative of the Debates in Parliament on the subject of the Boundaries, viz:

No. 19. Sayer and Bennet's United States of America with the British Possessions, &c. London, 9th February, 1783.

20. Bew's North America, &c. (or Rebel Colonies, now United States,) engraved for the Political Magazine. London, 9th February, 1783.

21. J. Wallis' United States of America, &c. London, April, 1783.

22. J. Cary's United States of America, &c. London, July, 1783.

These maps are an evidence of the contemporaneous understanding of the Boundaries of the United States, according to the preliminaries. In all of them those Boundaries are laid down as now claimed by the United States, and are the same with those delineated in the preceding maps, as the Boundaries of the Provinces of Quebec and Nova Scotia.

Seven other maps of the same character, published during the same and the ensuing year, afford additional proof of that understanding; (*k*) and evidence is not wanting that it continued to prevail in England for many subsequent years. (*l*)

No contradictory evidence has been adduced, unless some lately communicated by the British Government should be intended to shew that the Government of Quebec had been there understood to extend beyond the basin of the River St. Lawrence. It consists, first, of some private sales and leases of two seigneuries or fiefs, formerly granted by the French Government of Canada, one of which is situated on the River St. Lawrence, and the other, on one of the upper branches of the River St. John; 2dly, of a notice in the Quebec Gazette, of the year 1765, respecting the encroachments of inhabitants of Canada on the hunting grounds of the Indians on the River St. John. The total irrelevancy of that evidence might easily be shewn; but it seems more proper to reserve the reply, till after the object of the evidence shall have been fully explained. It is sufficient here to observe, that those obscure transactions, certainly unknown to the framers of the treaty of 1783, could have had no effect on their understanding of the Boundaries of the British Provinces.

It is believed that the intentions of the framers of the treaty of 1783, and their understanding, as well of the former limits of the British Provinces as of those agreed on

(*k*) Nos. 23 to 29.

(*l*) See Maps, Nos. 30 to 35.

by the treaty, have now been made manifest; and that it has been established in the most satisfactory manner, that the Boundary claimed by the United States is not less in perfect accordance with the intention and spirit, than with the letter of the treaty.

§ 5

The British Line inconsistent with, and in direct opposition to the terms of the Treaty.

It was not the object of the inquiry, and it has not been attempted, to refute various objections which have been urged on the part of Great Britain, before the late commission under the 5th article of the Treaty of Ghent. It is presumed that those on which the British Government mean to insist, will appear in their first statement: and the answer will find its proper place in the reply of the United States.

The acts of the two powers, or of the local governments, and the opinions which may have been expressed by any of their officers, in relation to the contested Territory, since the treaty of 1783, can, at best, be adduced but by way of illustration. They can throw no light on the intentions of the framers of the treaty of 1783; they cannot impair the rights of either party that are derived from the express and explicit provisions of the treaty. To shew what were, in fact, those intentions, and their perfect agreement with the line claimed by the United States, and to demonstrate that their right to the contested territory is conclusively established by the terms of the treaty, are the sole objects of this statement. From these it is not desirable to divert the attention, to points of very subordinate importance, which, for the present at least, will not be taken into consideration.

It remains, therefore, only to examine the Boundary line claimed by Great Britain, and to state the objections to it by the United States. These may, indeed, be easily anticipated, since the arguments in support of the line, contended for by America, were of such nature as to shew, not only that it accorded, but that no other line could be consistent with the treaty.

1. The north-west angle of Nova Scotia is declared, by the treaty, to be formed by a line drawn due north from the source of St. Croix River to the Highlands, which said Highlands are declared to divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean; and the treaty further declares the eastern Boundary of the United States to be, a line drawn "from the source of the River St. Croix directly north, to the aforesaid Highlands which divide the rivers that fall into the Atlantic Ocean from those which fall into the River St. Lawrence."

The United States accordingly contend, that the north-west angle of Nova Scotia can be found only at some point of the said due north line, and at that point only where the said line intersects the Highlands which divide the rivers aforesaid; that the said north-west angle is, therefore, determined to be at the point of intersection of the said north line, with the Highlands in which the rivers that fall into the River St. Lawrence have their sources; and that the said north-west angle thus determined, is, and can be no where else than at the place on the said north line, about 144 miles due north from the source of the River St. Croix, where the said line intersects the ridge or Highlands, which divide the waters of a tributary stream of the river St. Lawrence, (presumed to be the river Metis,) from the upper branches of the River Ristigouche, which falls into the Atlantic Ocean.

On the other hand it is contended, on the part of Great Britain, that the north-west angle of Nova Scotia is to be found, at a point on the said north line, about forty

miles due north from the source of the River St. Croix, where the said line intersects, or passes along the eastern basis of an insulated Mount, called "Mars Hill;" although neither that hill, nor that point of intersection, divides, or is near any other waters, but some small tributary streams of the River St. John.

Whatever objections have been, or may be, made to the point contended for by the United States, it is clear, and this is at present the only subject of discussion, that the place thus designated by Great Britain, as the north-west angle of Nova Scotia, does not fulfil, and is in direct opposition to, the conditions prescribed by the treaty.

Mars Hill, so far from being a Highland which divides the rivers that fall into the Atlantic Ocean from those which fall into the River St. Lawrence, is, at least, one hundred miles distant, in every direction, from any of the sources of any of the rivers that empty themselves into the River St. Lawrence; and it divides no other rivers, but Goosequik River, from the River Presque Isle; both which are tributary streams of the River St. John, into which they empty themselves, a few miles east of the said due north line. It is, therefore, contended, on the part of Great Britain, that although it is expressly provided by the treaty, that the north-west angle of Nova Scotia is formed by the due north line aforesaid, and the Highlands which divide the rivers that fall into the River St. Lawrence from those which fall into the Atlantic Ocean; yet that north-west angle is *not* on the Highlands, which divide the rivers thus expressly described, but on a Highland or place which divides other rivers than those thus described, viz: rivers that fall into one and the same river, the River St. John, which falls into the Atlantic Ocean.

In other words, it is contended that a point designated by the treaty, as a point on Highlands which divide rivers that fall into the River St. Lawrence from those which fall into the Atlantic Ocean, may be construed to be a point on a place, or Highland, that divides from each other rivers which, uniting their streams, fall together into the Atlantic Ocean, or, as British agents have contended, into the Bay of Fundy.

That pretension is objected to by the United States, not merely as an untenable construction, but as an actual substitution of a provision not in the treaty, to an express and explicit provision of the treaty.

2. The north-west angle of Nova Scotia, is, according to the treaty, formed by a line drawn due north from the source of the River St. Croix, to the Highlands which divide the rivers that fall into the Atlantic Ocean from those which fall into the River St. Lawrence. That north line being the western Boundary of Nova Scotia, the aforesaid Highlands which, together with it, form the said north-west angle, being the northern Boundary of Nova Scotia, must, from that angle, extend eastwardly towards the Bay des Chaleurs.

From the place, which the United States contend to be "the north-west angle of Nova Scotia," the dividing Ridge or Highlands extend in a north-eastwardly direction, passing north of the waters of the River Ristigouche and of its tributary streams, continuing to divide the several branches of that river from the rivers which fall into the River St. Lawrence, and forming the northern Boundary of Nova Scotia, as referred to in the treaty of 1783, and as described in the previous Acts of the British Government.

No Highlands dividing the rivers designated in the treaty of 1783, nor any Highlands, in any sense whatever of that word, do extend, or can extend, from Mars Hill eastwardly, so as to form by their intersection with the line drawn due north from the source of the River St. Croix, the north-west angle of Nova Scotia, and to be there the northern boundary of that Province.

The ground from Mars Hill, in any direction towards the East, so far from being "Highlands," in any sense of the word, does gradually descend towards the main

River St. John. (i) Any line drawn in that direction must, necessarily, within a few miles from Mars Hill, cross that river and sink to its level, at a place, which, being not more than eighty miles from the tide water above Fredericton, can be but little above the level of the Sea. Such line, from Mars' Hill to the River St. John, and for some distance beyond it, can divide no other rivers than the tributary streams of one and the same river, viz: the River St. John; and, instead of dividing it, must cross that river itself.

3. It must also be observed, that, by pretending that Mars Hill is the north-west angle of Nova Scotia, it is, in fact, contended that that Province has two north-west angles. For, arguing from the position assumed on the part of Great Britain, the Highlands, forming the northern Boundary and the north-west angle of Nova Scotia, must extend from Mars Hill to the western extremity of Bay des Chaleurs, which western extremity would, in that case, be the north west angle of that Province.

4. Finally, the Boundary of the United States is declared, by the treaty, to be "From the north-west angle of Nova Scotia . . . along the said Highlands which divide the rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River." And the American line agrees in every particular with that description; dividing, through its whole extent, rivers, which they contend to be, and which are, rivers falling respectively into the River St. Lawrence and into the Atlantic Ocean.

But the British line extends along the Highlands which divide the rivers described in the treaty, only from a point which divides a north-western source of the River Penobscot that falls into the Atlantic Ocean, from a source of the Majermette branch of the River Chaudiere, which falls into the River St. Lawrence, to the north-westernmost head of Connecticut River. It is only for that extent, or about eighty-five miles in a straight line, that the British, which there coincides with the American line, fulfils the condition prescribed by the treaty.

From Mars Hill, the pretended north west angle of Nova Scotia and the British place of beginning, to the nearest source of Penobscot River, their line divides, from each other, only tributary streams of one and the same river, viz: the River St. John; and thence to the source of the River Chaudiere, it divides only the tributary streams of that river from those of the Penobscot. The British line, therefore, from Mars Hill to the source of the River Chaudiere, does, through the whole distance, or about one hundred and fifteen miles, in a straight line, (m) divide no other river than rivers falling into the Atlantic Ocean from rivers falling also into the Atlantic Ocean; or, according to the suggestions of the British Agents, it divides no other rivers than rivers falling into the Bay of Fundy, from Rivers falling into the Bay of Fundy and the Atlantic Ocean. The line does not, for the whole of that distance, divide the rivers designated by the treaty, but, instead of that, it divides only rivers which are acknowledged by Great Britain not to be those contemplated and described by the treaty.

It is therefore, contended by Great Britain, that, notwithstanding the Boundary is expressly declared, by the treaty, to extend from the north-west angle of Nova Scotia to the north-westernmost head of Connecticut River, along the Highlands which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean; and although those words, *from, along,*

(i) See Section from Mars Hill to the mouth of the River des Chutes. Topographical Evidence, Commission Surveys, No. 3.

(m) There is no material difference between those distances as respectively laid down in Mitchell's Map and Map A.

and *to*, are the clearest and strongest which could have been selected for the purpose of declaring that the Boundary thus described, must, through its whole extent, from its beginning to its termination, be along the said Highlands, yet that clear and imperative description may be construed to mean, that the line may, for more than one half of its extent, be along ground, (or as asserted, Highlands,) which is acknowledged not to divide the rivers thus described by the treaty, but to divide only rivers acknowledged not to be those contemplated and described by the treaty.

To this the United States also object, not only as an untenable construction, but as being, to all intents and purposes, an actual and clear substitution of a new provision, to a most express and explicit provision of the treaty.

It is not intended to examine now the attempts which have been made to sustain such extraordinary pretensions, by resorting to intentions gratuitously ascribed to the framers of the treaty of 1783.

“The first general maxim of interpretation is, that it is not permitted to interpret what has no need of interpretation. When an act is conceived in clear and precise terms, when the sense is manifest, and leads to nothing absurd, there can be no reason to refuse the sense which this treaty naturally presents. To go elsewhere in search of conjectures, in order to restrain or extinguish it, is to endeavor to elude it. If this dangerous method be once admitted, there is no act which it will not render useless. Let the brightest light shine on all the parts of the piece, let it be expressed in terms the most clear and determinate, all this shall be of no use, if it be allowed to search for foreign reasons in order to maintain what cannot be found in the sense it naturally presents.” (Vattel, Book 2, ch. 17, § 263. Written Evidence, No. 25.)

But without anticipating what new arguments may be advanced on the part of Great Britain, this branch of the subject will be concluded by a single observation.

The British line passes along that portion alone of the Highlands dividing the rivers described by the treaty, which extends from the source of the Majermette branch to the sources of the Connecticut River. That portion alone is considered by the British as “the Highlands” contemplated by the treaty; and it lies west from Mars Hill, and, generally, from the line drawn due north from the River St. Croix. Had that portion of the Highlands been thus contemplated by the framers of the treaty; had they intended the description of the Highlands, as it stands in the treaty, to have applied exclusively to that portion; it becomes altogether incomprehensible that they should have defined the Boundary of the United States from the source of the River St. Croix, as a line “directly north to the Highlands which divide the rivers that fall into the Atlantic Ocean from those which fall into the River St. Lawrence.”

It is evident that, with Mitchell’s map before them, the negotiators, if contemplating no other Highlands than that particular portion, must, in order to reach it, have described the line to the Highlands, which divide the rivers that fall into the Atlantic Ocean from those which fall into the River St. Lawrence, as a line directly *west*, and not as a line directly *north*, from the supposed lake, which, in Mitchell’s map, is laid down as the source of the River St. Croix.

II.

NORTH-WESTERNMOST HEAD OF CONNECTICUT RIVER.

The Boundary of the United States, is, by the treaty of 1783, declared to be “from the north-west angle of Nova Scotia along the said Highlands which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, to the north-westernmost

head of Connecticut River; thence down along the middle of that river, to the forty-fifth degree of north latitude; from thence, by a line due west, on said latitude," &c.

The head branches of Connecticut River, but imperfectly known at the date of the treaty of 1783, have since been explored and surveyed, by order of the Commissioners appointed under the 5th article of the Treaty of Ghent. (*n*)

It is now ascertained that there are four of those branches which have their sources in the Highlands, by which they are divided from a tributary of the River St. Lawrence, and about fifteen to twenty miles north of the 45th degree of north latitude.

Those Branches, proceeding from west to east, are now known respectively by the names of Hall's Stream, Indian Stream, Perry's Stream, and Main Connecticut, or Main Stream, of Connecticut River. From its peculiar characteristic, this last branch might be designated as the Lake Branch or Stream.

Indian Stream, Perry's Stream, and the Lake Stream, are all united into one, about two miles north of the forty-fifth parallel of north latitude: and, thus united, they were known, at the date of the treaty of 1783, by the name of Connecticut River, at the place where the river was then supposed to cross the aforesaid parallel. The mouth of Hall's Stream, already known by that name, at the date of the treaty of 1783, is below, and about a quarter of a mile south of that place, but above, and half a mile north of, the point which, from later and more correct observations, appears to be in latitude 45.

Whether the words, "head of the river," were intended, by the treaty, synonymous with, or for the purpose of conveying a meaning somewhat differing from either of the words, "source," or, "head branch of the river;" the term "north-westernmost" necessarily implies that there is more than one "head of the river" within the meaning of the treaty; and that several sources or head branches were contemplated, as being equally heads of the river, and amongst which, the north-westernmost is designated as that, at which the Boundary leaves the Highlands.

The surveys will shew, at once, that the sources of the middle branch of Hall's Stream is the north-westernmost head of all the above mentioned branches of Connecticut River; and it has accordingly been claimed, on the part of the United States, as the true north-westernmost head contemplated by the treaty.

The source of the north-westernmost brook which empties itself into the upper Lake of the most eastern branch, (being that designated as the Main Stream or Lake Stream of Connecticut River,) has been claimed, on the part of Great Britain, as the north-westernmost head contemplated by the treaty. And the Commissioner on the part of his Britannic Majesty, under the 5th article of the treaty of Ghent, has sustained the claim; principally on the ground, that the said branch is, in fact, the main branch of Connecticut River; and that it is, and has, as he avers, been, for an indefinite time, exclusively known or distinguished by that name.

The Commissioner on the part of the United States, under the 5th article aforesaid, has decided that the head of the west branch of Indian Stream is the true north-westernmost head of Connecticut River intended by the treaty. This decision is founded on an opinion, that it must have been contemplated by the treaty, that the north-westernmost head of Connecticut River should become identified with the main stream, above and north of the place where the 45th parallel of north latitude was, at the date of the treaty, supposed to be. According to this construction, Hall's Stream being excluded, the head of the west branch of Indian Stream would become, as appears by the surveys, the north-westernmost head of Connecticut River, within the meaning of the treaty.

(*n*) Topographical Evidence. Surveys filed with the Commissioners under the 5th article of the Treaty of Ghent, Nos. 11 and 12, American Atlas

The term "north-westernmost head of the River Connecticut," could not have been intended by the treaty, to designate, at the same time, both the source of the principal branch of that river, and the source of the branch which might be exclusively known, at that time, by the name of Connecticut River; since, whether any of its upper branches was distinguished from all others by that name, and which was the principal branch, were facts unknown to the framers of the treaty. But, that either of these objects was intended, is equally repelled by the express terms of the treaty.

The expression "north-westernmost" necessarily implies, that more than one head of Connecticut river was contemplated by the treaty, and that the selection was made to depend, neither on the size nor name of the branch, but on its relative situation.

Had the words "head of the river" been intended to designate the main or largest branch, this must have continued to be the main branch, rivulet, or brook, to its very source. And if such had been the intention, the words "main head," or "head of the main branch," would have been substituted in the treaty to the words "north-westernmost head of Connecticut River."

It is denied, on the part of the United States, that the lake branch was, at the date of the treaty, known and exclusively distinguished as the main branch of the Connecticut River; but supposing it to have been, at that time, thus known and distinguished, still the term "north-westernmost" applied to the intended head, proves that a selection being contemplated, no one branch, even though emphatically called the main branch, is entitled to the exclusion of any other, to be considered as the "head of the river" intended and pointed out by the treaty. Had such been the intention, the word "north-westernmost" would certainly have been omitted.

The Boundary is, by the treaty, declared to be from the north-westernmost head of Connecticut River, down along the middle of that river, to the 45th degree of north latitude. And this has been urged to shew, that, from the said head, the Boundary must necessarily run down along the middle of a branch, exclusively known by the name of Connecticut River.

This inference is, in reality, nothing more than a repetition of the first assertion, and taking for granted what is in question.

If, by the words "north-westernmost head of Connecticut River," it had been intended to designate exclusively a branch specially known by the name of Connecticut River, then, and then only, it could be inferred, that, from that head, the boundary must run down the middle of a branch known by that special name. But this is precisely what is denied, and has been shewn to be inconsistent with the designation of "north-westernmost," affixed to the contemplated head.

If, as has already been proved, the word "north-westernmost" necessarily implies a selection amongst the various branches of Connecticut River, which have their sources in the dividing Highlands, it follows, that that branch which shall be found to be the north-westernmost head of Connecticut River, although not emphatically known at the date of the treaty of 1783, by the name of Connecticut River, or of main branch thereof, is, nevertheless, considered by the treaty as a branch or portion of Connecticut River. And it is down along the middle of such branch, that, from its source, the Boundary is contemplated to run.

This construction, which is alone consistent with the terms of the treaty, is, in fact, admitted on the part of Great Britain, since it has been adopted in relation to a part of the boundary she claims: and this admission, whether for a longer or shorter distance, is equally conclusive, as to the principle.

It cannot be asserted, it has not been insisted, that either the upper lake of that presumed main branch, or the brook that falls into it, and which is claimed by the British as the true north-westernmost head of Connecticut River, ever was, or now is.

known and distinguished by the name of Connecticut River, or of main branch of Connecticut River.

From the source of that brook, the Boundary Line, according to the British claim, runs down the middle of the said brook, and of the upper lake or pond, though neither is known by the name of Connecticut River. And yet the said line is contended for, on the part of Great Britain, as running from the source of said brook, along the middle of the river Connecticut. It is evident that this is precisely the principle for which the United States contend.

In what precedes, it has been taken for granted, that the lake branch of the Connecticut River was exclusively known and distinguished from all others, at the date of the treaty of 1783, by the name of Main Connecticut River. The United States are not bound to prove a negative. When it is asserted, on the part of Great Britain, that the branch in question had, at that time, received, and was alone known by, the name of Connecticut River, the burden of the proof falls upon her.

No such proof has been adduced on her part; the only evidence brought forward on the subject, applying to a date long subsequent to that of the treaty. The upper branches of Connecticut River, north of the 45th degree of north latitude, are not laid down correctly in Mitchell's Map; and there is none that is distinguished, as the main river, or by any special name. So far as this map regulated the proceedings of the framers of the treaty, it clearly shews, that they could not have supposed any one branch to be exclusively known by the name of the main Connecticut. It may, on the contrary, be fairly inferred from the map, that the most westerly branch, north of the 45th degree of north latitude, was that the source of which must have been contemplated as the north-westernmost head of the river.

There is not a single map published, prior to the treaty of 1783, in which those branches are laid down correctly; there is not a single one in which any trace can be found of the Connecticut lakes, which particularly characterize the branch pretended to have been known, in 1783, as the main Connecticut River. (o)

The first map adduced in evidence, in which Indian Stream (there called river,) and the lake branch are laid down with tolerable correctness, is that of New Hampshire, published in the year 1816, by P. Carrigan. And, even in that map, Perry's Stream is neither called by that name, nor laid down correctly. (p)

It has, it is hoped, been satisfactorily shewn that the supposition, that the Lake Branch was, in 1783, distinguished by the name of Main Connecticut River; a supposition on which, alone, the British pretension and argument are attempted to be sustained; is a mere assertion, unsupported by any evidence, and which seems to be entirely groundless. It has also been proved, that, supposing this assertion to have been founded in fact, no one branch, even though known in 1783 as the Main Connecticut, was entitled, to the exclusion of any other, to be considered as the head of the river designated by the treaty, unless the word "north-westernmost" was struck out from the treaty. It remains only to examine the reasons which induced the Commissioner, on the part of the United States, under the 5th article of the treaty of Ghent, to decide in favor of Indian Stream, to the exclusion of Hall's Stream.

The Boundary Line between the Provinces of New York and Quebec, had been surveyed in the year 1772, from Lake Champlain to the Connecticut River, along the 45th parallel of North latitude. (q) This line, as then run, crosses Hall's Stream, a short distance above its mouth, and terminates two miles above it, on the bank of the river, where the Surveyors placed a post, still subsisting. It was then that Hall's

(o) Topographical Evidence.—Printed Maps published to the year 1783, inclusively.

(p) Topographical Evidence.—Surveys and Maps under the late Commission, No. 28.—(Carrigan's map.)

(q) Topographical Evidence.—Surveys, No. 30.

Stream received its distinctive name ; and it was then that the main stream was, by the survey of the line, and by the erection of the monument at its end, recognised, in an authentic manner, to be, as high as that place, the Connecticut River. Above and beyond that place it was not explored ; and no distinctive names were given to its several upper branches.

According to that survey, Hall's Stream was understood to unite itself with the main river, South of the forty-fifth parallel of North latitude. And the Commissioner was of opinion, that the boundary line must necessarily, where it met the 45th degree of latitude, be in the middle of that stream, which, at that point, was, prior to the treaty of 1783, recognised to be the River Connecticut.

The Commissioner on the part of the United States, allowed to Great Britain all that, by the most liberal construction in her favor, could be claimed on her part. Several reasons have been urged in this statement, tending to shew that his argument, in that point, was not conclusive. But should his construction, nevertheless, prevail, Indian Stream, which is free of all objections, and the whole course of which is north of the 45th parallel of north latitude, must be considered as the north-westernmost head of Connecticut River, contemplated by the treaty.

This construction, it must be observed, is founded on the principle, that the general meaning of the expression "north-westernmost" is restrained by a limitation, found in another expression of that provision of the treaty. But there is another limitation which must also be attended to. The Boundary is declared to be along the said Highlands, which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River.

The Boundary continues, therefore, along the said Highlands to the said north-westernmost head. That head, therefore, is a source which rises, and every source is excluded which does not rise, in the said Highlands. But the north-eastern brook, which empties itself into the Upper Lake of the Lake Branch, rises opposite to a branch of the Margalloway River, which is a tributary stream of the Kennebec. That brook, therefore, as well as every other, that empties into the Lake Branch, east of the north-western brook, which is claimed on the part of Great Britain, as the north-westernmost head of the River, has its source, not in the Highlands, which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, but in a Highland which divides, from each other, two rivers, which both fall into the Atlantic Ocean.

The north-westernmost brook, that empties itself into the Upper Lake of the Lake Branch, and which is claimed on the part of Great Britain as the north-westernmost head, instead of being the north-westernmost, is, therefore, actually the north-easternmost head of Connecticut River, that rises in the Highlands, which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean. It is, therefore, in fact, contended on the part of Great Britain, that, of all the heads of Connecticut River which come within the description of the treaty, it is the north-easternmost which must be selected as being the north-westernmost head prescribed by the treaty.

III.

BOUNDARY LINE FROM CONNECTICUT RIVER TO THE RIVER ST. LAWRENCE.

The River Connecticut had, by an order in Council, dated the 20th of July, 1764, been declared to be the Boundary between the Provinces of New York and New

Hampshire, from the northern Boundary of the Province of Massachusetts' Bay, to the 45th degree of north latitude. (r)

On the 12th August, 1768, an order was issued by the King in Council, on the subject of the Boundary between the Provinces of Quebec and New York, in the following words, viz: "Whereas, there was this day read at the Board, a report from the Right Honourable the Lords of the Committee of Council for Plantation Affairs, dated the 9th of this instant, upon considering a report made by the Lords Commissioners for Trade and Plantations, upon an extract of a letter from Sir Henry Moore, Governor of New York, to the Earl of Shelburne, dated the 16th of January last, relative to the settling the Boundary line between that Province and Quebec: By which report, it appears that, it having been mutually agreed upon between Sir Henry Moore and the Commander in Chief of the Province of Quebec, at a meeting for that purpose appointed, that the line of division between these Provinces should be fixed at the forty-fifth degree of north latitude, conformable to the limits laid down in his Majesty's Proclamation of Oct. 1763, and it having been ascertained and determined by proper observations where the said line would pass: it is, therefore, proposed that the proceedings above stated, should be confirmed by His Majesty. His Majesty taking the said report into consideration, was pleased with the advice of his Privy Council, to approve thereof, and doth hereby confirm the proceedings above stated, and order, that the said line of division be run out and continued as far as each Province respectively extends," &c.

The Earl of Hillsborough, the King's Principal Secretary of State for the Colonies, transmitted on the 13th August, 1768, to Sir Henry Moore, Governor of New York, the above "order of His Majesty in Council, confirming the Boundary Line between New York and Quebec, as agreed upon, and fixed by yourself, (Governor Moore) and Governor Carleton," stating, at the same time, that His Majesty had the fullest reliance on his zeal, &c. for the due execution of said order. (s)

Those orders were completely carried into effect, and in the most authentic manner, by the successive Governors and other Provincial authorities of New York, in conjunction with those of the Province of Quebec.

The Surveyor General of the Province was authorized and directed by the Governor and Executive Council, to carry on that important service, agreeably to the tenor of his Majesty's instructions; and, by virtue of a commission which passed the Great Seal, he was authorized and directed, in conjunction with the Surveyor of the Province of Quebec, "to run, mark, ascertain, and distinguish the partition line between the two Provinces, as far as each respective Province extended."

Governor Tryon, in an instruction to the Surveyor General, dated 30th January, 1772, directs him to proceed to the place where the Surveyor had stopped the last fall (20 miles east of Lake Champlain), and then in the following words, viz:

"From whence, you are to continue the same line, until you arrive at the western banks of the main branch of Connecticut River, that crosses the 45th degree of northern latitude: but if such main branch shall be found not to extend northward, so far as the latitude of forty-five, then to run a perpendicular from the northernmost part of the said branch, to the line afore said; and in running the said line, care must be taken to blaze the trees on the east and west sides, as you pass along, cutting down only such trees as stand directly in the sight of the compass: and, at the distance of every three miles, laying together a large heap of stones, and cutting a few notches on the trees nearest each pile of stones. It is of the utmost consequence, that you should not stop at any water-course short of the aforementioned main branch of Connecticut

River ; and it is only by adhering to these instructions that you can answer the just expectations of the public, from whom you are to receive your reward for performing this important service. You are to return to me a map, with a field book of the survey, in which book you are to take notice of all remarkable waters you cross ; minutely, also, the courses and distances of the marked trees near the monuments or stones you shall erect, with such other observations as shall appear worthy of notice ; to the intent such map and field book may be lodged in the office of the Secretary of the Province." (t)

Successive and repeated instructions were given by the Governor and Council in relation to the same object. The Surveyor was particularly directed, after having run the line eastward to Connecticut River, to return to Point Moore, the station fixed on the east side of Lake Champlain, and place of beginning, and to extend the line from Lake Champlain, westward, until it should intersect the River St. Lawrence, in the 45th degree of north latitude. And the Lieutenant Governor of Quebec gave notice "That His Majesty's Council of that Government were unanimously of opinion that the Boundary Line between the two Governments should be run and distinguished, from Lake Champlain to the River St. Lawrence, as had been proposed by the Province of New York, and that the Surveyors were accordingly to proceed on that work." (u)

The line was accordingly surveyed and marked along the 45th parallel of north latitude, from the east side of Lake Champlain, (where it had been ascertained and determined, by the proper observations mentioned in the King's Order in Council of 12th August, 1768, that the line would pass,) to the river Connecticut, by Thomas Valentine, Deputy Surveyor, on the part of the Province of New York, and by John Collins, Deputy Surveyor of the Province of Quebec, in the years 1771, 1772. Both surveyors gave notice, that the line terminated on the bank of the Connecticut River, where a post was fixed, two miles and 5-8 of a mile above the mouth of Hall's Brook, and 90 miles and a 1-4 of a mile due east from the Boundary fixed on Lake Champlain. (v)

The Boundary Line was extended in the year 1773, fifty miles west of Lake Champlain, by Claude Joseph Sauthier, Deputy Surveyor for New York, and by John Collins, for Quebec. It was completed to the River St. Lawrence, in the year 1774, by John Collins alone, duly appointed to act for both Provinces. (w)

A plan "of the Boundary line between the Provinces of Quebec and New York, latitude 45 degrees, variation of the compass 9 degrees west, surveyed and completed the 20th October, 1774, by John Collins, D. S. General," was returned by the said Collins, and deposited in the office of the Secretary of New York, where it still remains. And the Legislative Assembly of the Province, by two acts, appropriated 800 pounds for the share of the expenses of the Province, in running out, marking and completing the Boundary Line between the two Provinces. (x)

These details have been stated, in order to shew the Boundary Line along the 45th parallel of latitude, from the Connecticut River to the River St. Lawrence, between the Provinces of Quebec and New York, having been first ascertained and determined by proper observations, was confirmed and ordered to be surveyed by the Crown, and that the work was executed and recorded in the most regular, authentic, and solemn manner.

It will be found, accordingly, that a grant of twenty thousand acres of land, adjacent to the said Boundary Line, was made to Edmund Fanning and others, on the

(t) Written Evidence, No. 25.

(u) Written Evidence, No. 26. (v) Written Evidence, Nos. 29 and 27.

(w) Topographical Evidence, Surveys Commission, No. 39.

16th February, 1775, by Cadwallader Colden, Governor of New York, in the name of the King, and under the Great Seal of the Province. The Boundary of the tract, thus granted, begins at a place on the west bank of the Connecticut River, "five hundred and nine chains on a straight line below a certain cedar post, set up on the west bank of the said river in the year 1772, by John Collins and Thomas Valentine, at the place where the line run by them, from the point of 45 degrees of northern latitude on Lake Champlain, intersects the said river; and this tract runs from the said place of beginning up along the said river, as it winds and turns, to the cedar post aforesaid, and thence along the said line run by John Collins and Thomas Valentine, North 81 degrees West (x) 709 chains, thence south," &c. (y)

It was also obviously in reference to the said line, that the Southern Boundary of the Province of Quebec, which according to the Proclamation of 1763, after crossing the River St. Lawrence and the Lake Champlain, in 45 degrees of north latitude, passed along the dividing Highlands, was, by the Quebec Act, declared to be along the dividing Highlands to a point in 45 degrees of northern latitude, on the eastern bank of the River Connecticut, keeping the same latitude directly west, through the Lake Champlain, until, in the same latitude, it meets the River St. Lawrence.

By the treaty of 1783, the Boundary of the United States is declared to be, along the middle of the River Connecticut, "to the forty-fifth degree of north latitude; from thence by a line due west, on said latitude, until it strikes the River Iroquois or Cataraquy," (St. Lawrence.) And the above mentioned line, between the Provinces of Quebec and New York, was considered, and continues, in fact, to this day, to be the line of jurisdiction between the dominions of Great Britain and the United States.

It is also in proof that all the subsequent grants of land, adjoining the said Boundary, have been laid down along the above mentioned line, as formerly surveyed; and that all the lands, from Connecticut River to the River St. Lawrence, along the 45th parallel of north latitude, (viz: "that Boundary between the former Provinces of New York and Quebec, as the same had been actually surveyed and established before the year 1775, under the authority of the two Provinces, and in conformity with the agreement between them, and ratified by the King's Order in Council of August, 1768,") have been granted and held by virtue either of ancient provincial grants, or of grants made by the States of New York and Vermont. (z)

It is provided by the 5th article of the treaty of Ghent, that, whereas neither the north-west angle of Nova Scotia, nor the north-westernmost head of Connecticut, has yet been ascertained, "and whereas that part of the Boundary line between the dominions of the two Powers, which extends from the source of the River St. Croix, directly north, to the above mentioned north-west angle of Nova Scotia, thence along the said Highlands which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River; thence, down along the middle of that river, to the forty-fifth degree of north latitude; thence by a line due west, on said latitude, until it strikes the River Iroquois or Cataraquy, *has not yet been surveyed*; it is agreed, that for those several purposes, two Commissioners shall be appointed," &c. who "shall have power to ascertain and determine the points above mentioned, in conformity with the provisions of the said treaty of Peace of 1783, and shall cause the Boundary aforesaid, from the source of the River St. Croix, to the River Iroquois or Cataraquy, to be surveyed and marked according to the said provisions."

According to observations of latitude, taken by Astronomers appointed in pursuance of that article, the 45th parallel of north latitude appears to be about three quar-

(x) By compass, the variation being nine degrees west.

(y) Written Evidence, No. 28. (z) Written Evidence, Nos. 29 and 30.

ters of a mile south of the above mentioned old line, both on the Connecticut River and on Lake Champlain; though it nearly coincides with the said line on the River St. Lawrence. The question referred is, whether, under the treaties of 1783 and of Ghent, the old line may continue to be considered as the Boundary of the United States, or whether this shall be surveyed anew, in conformity with the late observations of latitude?

It is clear that the portion of the line which extends from the River Connecticut to the River St. Lawrence, had been ascertained, by observations deemed proper at the time, and as such, had been confirmed by the Crown, and had been officially surveyed, under the provincial Government, by orders emanating from the Crown: that this line had, for more than thirty years, from the treaty of 1783 to that of Ghent, been held as the Boundary between the two countries, without any application from either Government to the other, to have it re-surveyed or altered; and that the treaty of Ghent nevertheless declares that the Boundary, from the source of the River St. Croix to the River St. Lawrence, (without making any exception,) had not yet been surveyed.

It is now submitted, whether, under all the circumstances of the case, as they have been stated, it was not intended by the treaty of Ghent that that part only of the Boundary, from the source of the River St. Croix to the River St. Lawrence, should be surveyed and marked, which had not already been officially surveyed and marked by competent authority; and whether, therefore, the line formerly surveyed and established as the Boundary between the Provinces of Quebec and New York, is not, in conformity with the true spirit and intent of the treaty, excepted from the provision which directs the Boundary, between the two Powers, to be surveyed, and should not accordingly remain, as heretofore, the Boundary between their respective dominions.

All which is respectfully submitted by the undersigned, Agents of the United States in the negotiation, and upon the Umpirage, relating to the North-Eastern Boundary of the said States.

ALBERT GALLATIN,
WM. P. PREBLE.

WASHINGTON, *June 1st*, 1829.

DEFINITIVE STATEMENT,

ON THE PART OF

THE UNITED STATES,

OF THE CASE REFERRED.

IN PURSUANCE OF THE

CONVENTION OF 29TH SEPTEMBER, 1827.

BETWEEN THE SAID STATES AND

GREAT BRITAIN,

TO HIS MAJESTY

THE KING OF THE NETHERLANDS,

FOR HIS DECISION THEREON.

PRINTED, BUT NOT PUBLISHED.

WASHINGTON:

PRINTED AT THE OFFICE OF THE UNITED STATES' TELEGRAPH.

1829.

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ERRATA.

Definitive Statement.

- Page 9, line 20—For “distnict,” read “distinct.”
14, “ 9—For “nor” read “or.”
38, “ 40—For “the” read “her.”
“ 41—Strike out “of Great Britain.”
41, “ 36—For “conditions” read “condition.”
43, “ 23—For “had” read “have.”
44, “ 25—For “therfore” read “therefore.”
45, “ 46—For “their” read “the.”
48, “ 50—For “unnecessary” read “unnecessary.”
50, “ 32—Strike out “of.”
51, “ 44—For “of,” at the end of the line, read “to.”
53, “ 33—Strike out “by.”
59, “ 6—For “posssion” read “possession.”
90, “ 50—For “in” read “on.”
91, “ 7—Strike out “that of.”
92, “ 7—For “East” read “West.”

STATEMENT.

I.

NORTH-WEST ANGLE OF NOVA SCOTIA, &c

§ 1.

PRELIMINARY OBSERVATIONS

Some of the Preliminary Observations of the First Statement, on the part of Great Britain, appear to have been intended for the purpose of suggesting, that the treaty of 1783 ought to be interpreted by rules different from those universally recognised for the construction of treaties in general. Preliminary Observations.

It is difficult to understand, for what other purpose it is asserted, that a Boundary established between the United States and the remaining British Provinces, and therefore common to both, "was made in reference to the boundaries of the *Provinces relinquished*, and not in reference to those which remained under the sovereignty of the King;" an assertion which appears still more extraordinary, when it is recollected, that the description in the treaty of the Boundary in question, is almost literally borrowed from that of the boundaries theretofore assigned by Great Britain to the Provinces of Nova Scotia and Quebec.

Another assertion equally uncalled for, is, that the relative position of Great Britain to the United States, at the time of negotiating the Treaty of 1783, (or the Provisional Articles of Nov. 1782,) was that of "a Mother Country treating with Colonies not yet recognised as independent;" and that "from the period of the cession by France of the Province of Canada in 1763, to that of the peace of 1783, the whole of that portion of N. America belonged to Great Britain."

It might with equal propriety be asserted, that all the United Provinces of the Netherlands had belonged to Spain till the treaty of Westphalia. It is notorious and in proof, that the United States refused to open a negotiation with Great Britain, until their independence had been previously actually recognised; and that Richard Oswald, the Commissioner appointed on the part of Great Britain, was accordingly, by his Commission dated 21st September, 1782, authorized to treat with any Commissioners or persons vested with equal powers by and on the part of *the thirteen United States of America*; his former commission of the 7th of August preceeding, appointing him to treat with any Commissioners, named or to be named by *certain Colonies or Plantations* therein specified, being at the same time expressly revoked by his said second commission. (a)

The acknowledgment of the independence of America was only the recognition of an existing fact: an acknowledgment not wanted by the United States, in order to establish the fact, but which, by putting an end to the war, was highly important to them; and, it may be presumed, not undesirable to Great Britain.

(a) Written Evidence, No. 9 (a)

All claims to the territorial rights of the United States are relinquished, on the part of Great Britain, by the same article which acknowledges them to be independent States.

This relinquishment, which was a necessary consequence of their independence, is entire, complete, and without any restriction or exception. The Contracting Powers proceed then, in the Second Article, and in order to prevent disputes, which might arise from their uncertainty if not expressly described, to declare and define the actual boundaries, as resulting from that relinquishment. It follows, therefore, that this Second Article is subject to no other rule of construction, but such as are admitted to apply to any Treaty concluded between equal and independent nations.

The principal object, however, of the Preliminary Observations of the British Statement is to suggest, that, the whole subject of boundaries being involved in obscurity, and the Negotiators having been unable to define them with sufficient accuracy, the very terms of the treaty manifest the uncertainty of the Negotiators, and it is necessary to appeal from its letter to what is called its spirit and their intentions.

Whatever uncertainty may, from the first instructions of Congress, be presumed to have existed in that body, respecting the true boundaries of Massachusetts' Bay, is evidently to be ascribed to the want of a sufficient investigation of the Charter of that Province, and of the other Public Acts of Great Britain, affecting the subject, which have been stated at large in the first American Statement. And it is equally evident, that, whatever may have been the cause of that uncertainty, there was none in that respect on the part of the framers of the Treaty.

In obedience to those instructions, the alternative was in the first instance offered, either to declare the River St. John to be the Boundary, or that the true line between Nova Scotia and the United States should be settled by Commissioners, as soon as conveniently might be after the war. The last alternative would undoubtedly have been adopted, had there been any uncertainty on the part of the Negotiators, and had they thought it *absolutely impossible* to lay down with sufficient accuracy the several points and lines of the Boundary in question. Instead of which, after a due investigation of the Charter and other Public Acts of Great Britain, they ultimately agreed, not to leave the subject in that state of uncertainty in which the proposed reference to Commissioners would have placed it, but actually to define the boundary in conformity with the provisions of that Charter, as modified or explained by those other several Public Acts.

A doubt indeed afterwards arose, which it became necessary to settle by a special commission, with respect to the true River St. Croix. Relying on the use of Mitchell's Map, the American Negotiators had expected that no question could arise even as to that point. But, in reference to that portion of the boundary which is now alone the subject of discussion, the terms of the Treaty are neither uncertain nor obscure, but on the contrary equally clear, precise, and appropriate.

The North-west Angle of Nova Scotia, as claimed by the United States, is, in strict conformity with those terms, on highlands which actually divide the rivers that empty themselves into the River St. Lawrence from the waters of the Ristigouche. And the boundary line, as claimed by them, extends thence, through its whole extent, to a certain source of the Connecticut River, along highlands which actually divide rivers that empty themselves into the River St. Lawrence from the waters of the Ristigouche, the St. John, the Penobscot, the Kennebec, the Androscoggin, and the Connecticut; all which rivers, as the United States contend, fall into the Atlantic Ocean.

Mars' Hill, which Great Britain pretends to be the North-west Angle of Nova Scotia, is acknowledged by her to be a highland which neither divides, nor is within one hundred miles of any highland that does actually divide, rivers that empty them-

selves into the River St. Lawrence, from any other river or rivers whatever. And it is likewise acknowledged, on her part, that the boundary line, claimed by her, is, from that point, and through three-fifths of its extent, along highlands which do not actually divide rivers that empty themselves into the River St. Lawrence, from any other river or rivers whatever.

The question at issue between the two Governments therefore is, whether the terms of the Treaty, which describe the North-west Angle of Nova Scotia and the boundary line from that point to a source of the Connecticut River, as being respectively on and along the highlands, which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, are susceptible of the following interpretation, viz: that the North-west Angle of Nova Scotia and the said boundary line, for three-fifths of its extent, may be respectively on and along highlands, which do not actually divide the rivers as above specified.

In order to sustain her extraordinary pretension, it was incumbent on Great Britain, before she proceeded to search for the intentions of the Negotiators, to prove, in the first place, that the terms of the treaty were susceptible of the interpretation which she ascribes to them.

Instead of pursuing this course, not a single argument is adduced, in the British Statement, to sustain the main position on which the pretension of Great Britain is founded. No attempt is made to prove, that the terms of the treaty can be so interpreted, as to mean the reverse of what they express. And it is because those explicit terms are wholly irreconcilable with her pretensions, that Great Britain is compelled to suggest, as has been done in the Statement on her part, an appeal from the letter of the treaty to what is very improperly called its spirit, and to certain intentions which, it will be found, have been most gratuitously ascribed to the framers of the treaty.

Admitting that there was some foundation for the several objections contained in the British Statement: admitting, which is altogether denied, that the term "Rivers which fall into the Atlantic Ocean," is, in that sentence, of doubtful import, and, what is equally unfounded, that the term "Highlands" implies a character which does not attach to the ground over which the American line extends: yet, the place claimed by Great Britain, as the North-west Angle of Nova Scotia, and three-fifths of what she asserts to be from that point the boundary line, would still be on grounds, or Highlands, other than those prescribed by the express terms of the treaty.

This observation would of itself be a satisfactory answer to all those objections. It is a matter of regret that they cannot be fully examined and refuted, without entering into details, which will extend this Reply much beyond what was desirable or had been anticipated. But although the course, thus forced upon us, may be attended with the inconvenience of giving an appearance of complexness to a question most simple and clear in itself; the investigation will at least have the advantage of exposing, in a striking manner, the arguments which must be resorted to, in the attempt to sustain the pretensions of Great Britain, and of placing in a still stronger light the solidity of the right of the United States to the contested territory.

The observations in the British Statement embrace the following points, viz:

A general assertion, that the framers of the treaty of 1783, intended to give to each Power the entire possession of the rivers which have their mouths within their Dominions, respectively.

The geographical signification of the term "Atlantic Ocean."

The effect which the designation of the Bay of Fundy and of the Gulf of St. Lawrence, by their specific names, in one sentence, may have on the term "Rivers which fall into the Atlantic Ocean," in another sentence of the treaty.

The inductions which may be drawn, in reference to the same term, from the negotiations of 1782, and from the Canadian origin of a certain grant of land known by the name of "Fief of Madawaska."

Preliminary Ob-
servations.

The signification of the term "Highlands," and the character of those claimed by both Powers respectively.

The Acts of both Parties, and the opinions expressed by some of their officers, in relation to the contested territory, subsequent to the treaty of 1783.

Those several points will be successively investigated; always recollecting, however, that they do not affect the main question at issue, to which we will afterwards revert.

FIRST PART.

OBJECTIONS TO THE AMERICAN LINE EXAMINED.

§ 2.

GENERAL ARGUMENTS APPLICABLE TO BOTH THE BAY OF FUNDY AND THE GULF OF ST. LAWRENCE.

Rivers intersect-
ed.

The first effort in the British Statement, to prove that the rivers described, in the Treaty, as falling into the Atlantic Ocean, do not include those that empty themselves into the Bay of Fundy and the Gulf of St. Lawrence, consists in an appeal to certain pretended intentions of the framers of the treaty, in the following words:

"There being between them, (Canada and Nova Scotia,) at the period of the treaty of 1782-3, no certain and acknowledged Boundary, no man knew where the north-west angle of Nova Scotia really was; and the negotiators of the treaty proceeded *by other modes* to describe the intentions of their respective Governments, which were, to give to each Power the entire possession of the great rivers which have their mouths within their dominions respectively."

That there were certain and acknowledged boundaries between Canada and Nova Scotia, at the period of the treaty, and that the reference in it, to the north-west angle of Nova Scotia, could not have been made, had not this been a point previously determined, has been conclusively established in the First American Statement. No man, indeed, knew the spot of ground where that angle would be found; but, in order to ascertain this, nothing more was believed, at the date of the treaty, to be required, than the operation of surveying the line, to be drawn due North from the source of the River St. Croix, till it met the dividing highlands. And admitting the unfounded supposition, that there was at that time any uncertainty with respect to those highlands, it is most certain, that the negotiators of the Treaty resorted to no other modes to describe the intentions of their respective Governments, than that of defining the boundary in the Treaty itself.

The assertion is inferred, from what is called the *rationale* of the case, and from the preamble of the preliminary articles of 1782.

The *rationale* of the case consists in saying, that, "by the treaty, the River St. Croix, which is described as having its mouth in the Bay of Fundy, is expressly assigned as the extreme eastern limit of the United States;" and that, "in the meridian of the source of this River, is placed the point of departure for the whole line of boundary, which is to be thence traced westward." Whence it is inferred:

1st. That "It was evidently determined, in this very important part of the boundary, to divide from each other, at their sources, the several great rivers assigned to each power. Such intent, the expression 'highlands which divide,' plainly denotes: for what could be the object of selecting highlands at all in reference to rivers, if those

sivers were to be divided by the Line of Boundary indiscriminately, either at their ^{Rivers intersect} sources, or in any part of their course?"

2dly. That "the St. Croix being the extreme eastern limit of the United States, the only rivers which could have been intended to have been thus divided, were *surely* those which empty themselves between the meridians of St. Croix, eastward, and of the head of the Connecticut River, westward; thus securing to the United States the whole of each river emptying within their own territory, and to Great Britain the whole of each river emptying within her territory."

In the first of those inferences, the term "to divide" is used in two different senses. Where it first occurs, and as applied to the highlands, it means, to separate the sources of one class from the sources of another class of rivers. In the next sentence, and as applied to the due North line, it means, to cross or intersect one and the same river.

And thus, because the Boundary, extending westwardly from the north-west angle of Nova Scotia to the source of Connecticut River, was to *separate* from each other, *at their sources*, the several rivers falling respectively into the River St. Lawrence, and into the Atlantic Ocean; it is inferred, that it was intended that none of those rivers should be *intersected* in any part of their course, by another and distinct portion of the boundary.

The second pretended inference is only a repetition of the assertion intended to be proved. There is no connection between the fact, that the sources of the rivers to be divided, lie westward of the meridian of the source of the St. Croix, *east* of which the United States can claim no territory, and the assumed conclusion, that the United States cannot claim that portion of the country watered by those rivers, which is situated *west* of that meridian.

The United States contend, that the intention of that clause of the treaty is precisely what it purports to be, viz. that the boundary line should, through its whole extent from the north-west angle of Nova Scotia to the head of Connecticut River, divide from each other the rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean; that this imperative clause, thus to divide the said rivers, applies exclusively to that particular part of the Boundary thus precisely defined; that it does not prescribe, either to divide or not to divide rivers, nor contains any injunction whatever, with respect to any other portion of the Boundary between the two Powers; and that every other portion of the said Boundary is defined distinctly, and must be understood as thus defined, according to the terms in which each such portion is respectively described.

It is hardly necessary to advert to the pretended "anomaly which attends the line *destined to divide the St. John*, if an Atlantic River, *from the St. Lawrence Rivers*, namely, that that line would be absolutely obliged to cross the St. John in the middle of its course, in order to arrive at its source, for the purpose of dividing it from the rivers flowing into the St. Lawrence."

The line, which by the treaty is not only destined, but expressly directed, to divide the St. John from the St. Lawrence rivers, is that alone which extends from the north-west angle of Nova Scotia, to the head of Connecticut River; and the due North line from the source of the St. Croix, which does actually cross the St. John, is, in no manner whatever, directed, destined, or intended, to divide the tributary streams of that River from those that fall into the St. Lawrence.

But when it is added, that, if it had been intended, that the due North line should cross the River St. John, there can be no doubt that such a peculiarity would have been *specifically* adverted to; it must have been forgotten, that both the direction and length of a straight line are determined by the two points at its two extremities, so as to render any further description superfluous; and that, accordingly, although it was equally well known, that the Boundary along the parallel of the 45th degree of North

Rivers intersect-
ed.

latitude would cross Lake Champlain, and that the southern Boundary would also cross the Mobile, those peculiarities were neither in the treaty, nor the negotiations, *specifically* adverted to. (b)

Some general expressions, in the preamble of the provisional articles, considerably modified in that of the definitive treaty, have been resorted to, as referring to the boundaries, and as proving that the negotiators had other boundaries in view than those which are expressly defined in the treaty.

That preamble was originally prefixed, in the same words, to the four articles agreed upon, on the 8th October, 1782, between Richard Oswald, Benjamin Franklin, and John Jay, and which are contained in the paper No. 1, enclosed in B. Franklin's letter, of 5th December, 1782. (c)

The 4th Article is in the following words:

"That the navigation of the River Mississippi, from its source to the Ocean, shall for ever remain free and open, and that both there, and in all rivers, harbors, lakes, ports, and places, belonging to his Britannic Majesty, or to the United States, or in any part of the world, the merchants and merchant ships of the one and the other, shall be received, treated, and protected, like the merchants and merchant ships of the sovereign of the country: that is to say, the British merchants, and merchant ships, on the one hand, shall enjoy in the United States, and in all places belonging to them, the said protection and commercial privileges, and be liable only to the same charges and duties as their own merchants and merchant ships; and on the other hand, the merchants and merchant ships of the United States, shall enjoy in all places belonging to his Britannic Majesty, the same protection and commercial privileges, and be liable only to the same charges and duties of British merchants and merchant ships, saving always to the chartered trading companies of Great Britain, such exclusive use and trade, and their respective posts and establishments, as neither the subjects of Great Britain, nor any of the more favoured nations participate in."

It is impossible not at once to perceive that the expressions used in the preamble, "principles of liberal equity and reciprocity," and, "partial advantages being excluded," *so that* "a beneficial and satisfactory intercourse between the two countries may be established," applied in the most direct, if not exclusive manner, to the clauses of the aforesaid 4th Article, which provide for a reciprocal, liberal, and beneficial intercourse between the two countries.

No such provision was inserted in the Preliminary Articles of November, 1782. Dr. Franklin, in his letter of 5th November, 1782, alluding to that omission, says, "The reason given for dropping the article relating to commerce, was, that some statutes were in the way, which must be repealed before a treaty of that kind could be well formed, and that this was a matter to be considered in Parliament." (d)

There being still an expectation, that an agreement might be made on that subject, the Preamble was suffered to remain in the Preliminary Articles. But when, after a long negotiation, which took place during the course of the year 1783, and the details of which may be seen in Dr. Franklin's Correspondence, (e) it was found that there was no longer any hope of establishing, as had been at first intended, a beneficial commercial intercourse between the two countries, and that, accordingly, no provision could be inserted in the treaty to that effect, the Preamble, which was applicable to that object, was considerably modified, omitting in the Definitive Treaty the most pointed, and preserving only the most general expressions.

(b) It cannot even be asserted, that the fact of the due North line crossing the River St. John, was not adverted to in the negotiations, since there is no account extant of the discussions which took place in that respect, subsequent to the rejection of the first project.

(c) Written Evidence, No. 9. (a)

(d) Dr. Franklin's 3d vol. page 285.

(e) Ibid. pages 321—371

An allusion has also been made to the first sentence of the Second Article of the Definitive Treaty. <sup>Rivers inter-
ced.</sup>

All claims to the territorial rights of the United States, and of every part thereof, having been relinquished by his Britannic Majesty, in the first Article; the second, *in continuation*, is thus expressed, viz: “*and* that all disputes, which might arise in future on the subject of the boundaries of the said United States, may be prevented, it is hereby agreed and declared, that the following are and shall be their boundaries.”

It is obvious from the tenor of the Article, that the disputes on the subject of boundaries, intended to be prevented, were those which might have arisen, not from their not being every where equally convenient to both parties, but from their uncertainty, had they been left subject to the doubtful interpretation of the indefinite term “territorial rights,” instead of being specially and precisely described.

The proper answer, however, to every inference attempted to be drawn from such general expressions, used in a Preamble, or as introductory, is, that their true intent can only be found in the actual conditions of the treaty, instead of deducing the meaning of those conditions from conciliatory expressions of vague import, which are usual and proper in most treaties of peace.

The general assertion, respecting the intentions of the framers of the Treaty, is not only unsupported by proofs, but it is disproved both by the avowed intentions of the negotiators, and by the various provisions of the treaty.

It has been conclusively shewn, in the First American Statement, that wherever it was practicable, and clearly with respect to the portion of the boundary under discussion, the boundaries were declared and designated by the treaty, not on any abstract principle, or arbitrary grounds, nor with a view to presumed convenience, but in exact conformity with the boundaries previously established by the public acts of Great Britain. (*f*) This having been the undeniable intention of the negotiators, and being incontestably proved by the coincidence of the expressions used in the treaty and in those acts, is alone a conclusive proof, that their object was not to assign to each Power the entire possession of those rivers, which had their mouths within their territories respectively.

This presumed intention is equally disproved by the decisive fact, that it was not adhered to, with respect to any other part of the Boundary.

From the Connecticut River to St. Regis, on the River St. Lawrence, the Boundary is a due west line, along the 45th parallel of North latitude, which crosses Lake Champlain, and several other tributary streams of the River St. Lawrence, leaving within the United States, the upper branches and the sources, and within the dominions of Great Britain, the mouths and lower portion of those streams.

From St. Regis to the western extremity of Lake Superior, all the rivers from the South, which fall either into the River St. Lawrence, or into the great lakes with which it communicates, are within the boundaries of the United States: Whilst all the rivers which, flowing from the South, fall into the River St. Lawrence below St. Regis, and all the rivers without exception, which flow from the North, either into the great lakes, or into that river, are, together with the mouth and sole outlet into the Sea of that immense body of waters, assigned to Great Britain.

All the inconveniences, with respect to navigation, or to a division, between the two Powers, of a country lying on the banks and waters of the same River, which are ascribed, by Great Britain, to the treaty boundary line, so far as it affects the River St. John, apply, with equal and greater force, to the River St. Lawrence, and to the extensive countries situated on its waters. And, on the principle she assumes,

(*f*) Viz: The Charter of Massachusetts' Bay, the Royal Proclamation of 1763, the Act of Parliament [Quebec Act] of 1774, and the Commissions of the Governors of Nova Scotia, to the year 1782.

Rivers intersect
ed

she might, with equal consistency, justice, and adherence to the terms of the treaty, claim all the territory, on the South of the River St. Lawrence, and of its great reservoirs, which belongs to the United States, as she now does the upper half of the basin of the River St. John, which lies West of the line drawn due North from the source of the River St. Croix.

On the other hand, as it will be conclusively established in the course of this inquiry, that the upper basin of the St. John is, by the express terms of the treaty, within the boundaries of the United States; in what respect, on the principle she assumes, is the right of Great Britain to that territory better founded, than that of the United States to the lower basin, and to the mouth of that River; that is to say, to the most valuable part of the Province of New-Brunswick?

In the same manner the Southern boundary, from the banks of the Mississippi, extends to the source of the St. Mary's River, crossing, not far from their mouths, the great Rivers Mobile and Appalachicola, and numerous other considerable streams, leaving the mouths of all those rivers, together with a narrow slip along the sea coast, without the Boundaries of the United States; whilst the whole of the upper, or more than nine-tenths of the country watered by those rivers and their tributary streams, is, by the treaty, declared to be within their dominions.

The Rivers St. Croix and St. Mary, from their mouths to their sources; the River Connecticut, from its source to the 45th degree of North latitude; the Mississippi, from the latitude of the Lake of the Woods to that of the 31st parallel; the water communication between Lake Superior and that of the Woods; that Lake; a due West line from its North-western extremity to the Mississippi, and finally the due North line from the source of the River St. Croix to the Highlands, complete the description of the boundaries prescribed by the treaty.

Not a single portion of the Boundary is described by the treaty, as dividing from each other the rivers flowing in different directions; that alone excepted, which extends from the North-west angle of Nova Scotia to the North-westernmost head of Connecticut River.

The United States contend, that, through its whole extent between those two points, and in no other part of it, the Boundary line must divide the rivers as described in the Treaty.

And when Great Britain insists, that the intention of the negotiators was to divide the rivers, so as to assign to each Power, respectively, the whole country situated on those, the mouths of which were in their territories; it is for the purpose of drawing the extraordinary inference, that the only portion of the Boundary, which is expressly designated by the treaty as dividing, is precisely that which was intended, *not to divide* the rivers that empty themselves *into the River St. Lawrence*, from those that fall into the Atlantic Ocean.

Let it be further observed, that, with respect to the waters of the River St. John, the Boundary was established, and the British claim is now asserted in direct contradiction to the suggested intention. It was known to the framers of the treaty, as will appear by Mitchell's Map, that the due North line must necessarily cross the Western tributary streams of that river. The line does accordingly cross some of its waters, within two miles of the source of the St. Croix, and before it reaches Mars' Hill, no less than three of those tributary streams, viz: Bull's Branch, the River Meduxnekeag, and the Presqu'isle River. The country on the West and along thirty-eight miles of the due North line, watered by those three rivers, is acknowledged by Great Britain to be within the territories of the United States, although the mouth of that river is within her dominions.

Atlantic Ocean.

Geographical practice is declared, in the British Statement, not to be the principal ground on which Great Britain rests her distinction, between the Bay of Fundy, (and

the Gulf of St. Lawrence,) from the Atlantic Ocean. Yet the references made in that Statement to common language and to public documents, respecting the use and effect of the specific names of the different parts of the Sea, render it necessary to shew, in the first instance, that the terms, "Rivers which fall into the Atlantic Ocean," considered independent of the effect which other parts of the treaty, or considerations drawn from other sources, may have on their meaning, do, where they occur in the treaty, embrace the rivers which fall into the said Ocean, through either of its two inlets, the Bay of Fundy and the Gulf of St. Lawrence.

It has never been disputed that, in their general geographical acceptation, the great divisions of the Sea embrace their subordinate subdivisions; nor that those subdivisions, including all inlets, bays and gulfs, are known by specific names. It cannot be denied, that, according to every rule of language, the generic term, when used alone, must be understood to embrace the subordinate subdivisions of the Sea or Ocean, known by that term; and that, when a specific name is used, it applies exclusively to the particular inlet, gulf or bay, designated by that name. When thus used apart from each other, there is neither confusion nor difficulty. The generic term embraces, the specific name designates, the subordinate inlets: each is used with propriety as the occasion may require.

No one can doubt that, when the Gulf of Finland, or the Adriatic, Hudson's Bay, or the Chesapeak, are specified by their distinct names, it is for the express purpose of considering them, for the time, apart and as respectively distinct from the Baltic, the Mediterranean, and the Atlantic: nor that, when the object is to designate with precision the situation of St. Petersburg, Venice, Amsterdam, or Baltimore, the particular inlet, gulf or bay, on which those cities are respectively situated, must necessarily be specified.

But this use of specific names does not at all prevent the use, or restrain the meaning of the generic terms, when there is occasion for them. Thus a British merchant, when speaking of the Mediterranean, or of the Baltic trade, always embraces that to Venice in the first instance, and that to St. Petersburg in the second. And thus, a voyage from an European port, whether to Baltimore, to Quebec, or to New-York, is always, and with equal propriety, called a voyage across the Atlantic.

The instances given in the 13th page of the British Statement are, therefore, irrelevant: nor is it perceived for what object Mitchell's Map has been appealed to, in reference to those general and specific designations. There are certainly on the American coast, two inlets of the sea, known by the names of "Bay of Fundy" and "Gulf of St. Lawrence;" and Mitchell's Map, in common with every other map, proves, in that respect, nothing more; unless indeed it should be inferred, that the much larger and more conspicuous characters of the words *Atlantic Ocean* had for object to represent it as a whole, of which the said bay and gulf were subordinate parts.

When the generic term "Atlantic Ocean," and the distinct name of one of its inlets, are used in the same sentence, either as united together, or as contradistinguished from each other, the term "main" is expressly prefixed to that "Atlantic," or implied; the signification of the general term is thereby restrained; and it must be so understood as to exclude the inlet thus distinctly designated. Of this mode of expression, several instances are given in the British Statement.

Thus, Governor Pownall describes the rivers having their sources amidst certain ridges, as falling into the Bay of Fundy, or into the *main* ocean. That expression means, that some of those rivers had their mouths as far east as the Bay of Fundy: and the word *main*, prefixed to *ocean*, clearly proves, that he considered that bay as part of the ocean.

In the description of the boundary of East Florida, as defined by the Proclamation of 1763, the signification of the term "Atlantic Ocean" is, in the same manner, restrained, so as to exclude the Gulf of Mexico, and what is there called the Gulf of Florida; the word *main*, though not expressed as in the preceding case, being nevertheless necessarily implied.

There is, in this instance, a superfluous use of specific appellations. After having defined the land boundary, the residue would have been as explicitly and more correctly described, by simply saying, that the province was bounded on all other sides by the sea.

A striking instance of inaccuracy, arising from the same cause, is to be found in the article of a plan of a treaty with France, also quoted in the British Statement, in the following words: viz.

"The Most Christian King shall never invade nor possess himself of Labrador, New Britain, Nova Scotia, Acadia, Canada, Florida, nor any of the countries, cities, or towns on the continent of North America; nor of the islands of Newfoundland, Cape Breton, St. John's, Anticosti, nor of any other island lying near to the said continent, in the seas, *or* in any gulf, bay, or river."

If, on account of the disjunctive, *or*, it may be inferred, that gulfs and bays are altogether distinct from, and not embraced by the general word *seas*, (*g*) it may equally be concluded from the word *nor*, in the first member of the sentence, that Nova Scotia, Canada, Florida, &c. are not countries on the continent of North America. Notwithstanding such inaccuracy, this and similar sentences must be construed as they were clearly intended; and the word *seas*, as meaning the "high seas," and in that particular sentence, excluding any inlet, gulf, or bay of the seas.

In that clause of the treaty, however, which is at this moment alone under consideration, the term "Atlantic Ocean" is not contradistinguished from, or united with, either of those, "Bay of Fundy" or "Gulf of St. Lawrence." It must necessarily, in its usual acceptation, and as the generic term, be understood there as including both those inlets, unless it can be shewn that, as is true with respect to some of its other geographical subdivisions, the term "Atlantic Ocean," when used alone, has been usually understood as excluding those two inlets.

Geographers have usually divided the whole of the seas into five great subdivisions: the Atlantic, the Pacific, the Indian, the Arctic, and the Antarctic Oceans; and when either of these are contrasted with each other, those great generic distinctions are admitted and proper. But the acceptation of terms, as generally used in common language, is the only proper guide in the interpretation of treaties; and there are several European seas, which, though embraced by the geographical definition, are commonly considered as not included within the term "Atlantic Ocean."

The Mediterranean and Black Seas were the first known to the ancient civilized nations: they were therefore the first which received special appellations; and that of Mediterranean has been used from the earliest times to distinguish the sea, still known by that name, from the sea without the straits, at first called *Ocean*, and now Atlantic Ocean. By a parity of reasoning, the Baltic, being a close sea, was from its first discovery considered under that name, as distinct from the ocean.

And although, as has already been shewn, (*h*) the Irish Channel and the North Sea are held, in correct geographical language, to be included in the general term "Atlantic Ocean," it is also true that the term "North Seas" is commonly used as comprehending both the Baltic and the North or German Sea; and that the term "Chan-

(*g*) The word *seas* is in this instance taken in the British Statement as synonymous, as it really is, to the Atlantic Ocean.

(*h*) Written Evidence, No. 6

nel" has also been used as including both the "Manche" or British and the Irish Atlantic Ocean Channel.

Long usage has consecrated those expressions; and it will therefore be admitted, that although geographers, in their great divisions of the Ocean, consider those several seas as parts of the Atlantic Ocean, they are generally, in common language, taken as distinct; so as to render it doubtful whether the term "Atlantic Ocean," used by itself in a public document, could be properly understood to include those inland seas. But it may be confidently asserted, that in common language, as well as in its geographical acceptation, the term "Atlantic Ocean," when used alone, and its meaning is not restrained by some other expressions, has ever been held to embrace all the inlets, bays, and gulfs of the American coast: or, that if there has ever been any exception, it is solely that of the Gulf of Mexico.

Thus Governor Pownall, when speaking generally of the Atlantic Ocean, considers it as embracing even the Gulf of Mexico. "We know from observation how much higher the *Atlantic Ocean* is than the Pacific; and how *it is piled up* against the American coast *on the western shore of the Gulf of Mexico*, driven thither by the trade winds," &c.

Mr. Bouchette, Surveyor General of Lower Canada, in his topographical description of that province, (i) speaks of "the vast collections of fresh waters forming the chain of lakes, that, through the *channel of the St. Lawrence*, descend like another sea, to swell the bosom of the Atlantic." And again, "the River St. Lawrence . . . receives nearly all the rivers that have their sources in the extensive range of mountains to the northwards, called the Land's Height, that separates the waters falling into Hudson's Bay, still further to the north, from those that descend into the Atlantic."

In this last instance, the term "Atlantic" embraces both the River and Gulf of St. Lawrence. In the first, as the *channel* of the St. Lawrence can mean nothing but the River St. Lawrence, which empties itself into the gulf of the same name, that gulf is there again identified with the Atlantic.

In another place he says, "Beyond this range, at about fifty miles distance, is the ridge generally denominated the Land's Height, dividing the waters that fall into the St. Lawrence from those taking a direction towards the Atlantic Ocean. . . . This chain commences upon the eastern branch of the Connecticut river, takes a north-easterly course, and terminates near Cape Rosier, in the Gulf of St. Lawrence." As the ridge there described commences on Connecticut River and terminates at Cape Rosier, the waters divided by that ridge from those that fall into the River St. Lawrence, embrace the rivers that empty themselves both into the Bay of Fundy and into the Gulf of St. Lawrence.

It is declared, in the Proclamation of 1763, to be the royal will, that no Governor of the colonies of Quebec, East Florida or West Florida should presume to grant lands beyond the bounds of their respective governments; "as also that no Governor or Commander in Chief of our other colonies or plantations in America, do presume, for the present, and until our further pleasure be known, to grant any warrant of survey or pass patents, for any lands beyond the head or sources of any of the rivers which fall into the Atlantic Ocean from the west or north-west."

Those other colonies, lying between those of Quebec and East Florida, extended along that line of demarcation beyond which it was forbidden to grant lands, from the north-easternmost sources of the River Susquehanna which lie north of the 42d degree, to those of the Altamaha River in 33 degrees of north latitude.

The space occupied along that line by the sources of the Susquehanna, Potomac,

Atlantic Ocean.

James' River and Roanoke, and of their tributary streams, is more than one half of the whole extent of the line. And of those four rivers, the three first named empty themselves into the Atlantic Ocean, through the bay of Chesapeake; and the Roanoke, through an inland bay, known by the name of Albemarle Sound, which has no communication with the sea, but through three narrow and shallow passes. It cannot therefore be doubted that in this instance, by rivers which fall into the Atlantic Ocean, those are meant which fall into its bays or inlets, as well as those which fall directly into the main ocean.

The following provision is found in the preliminary articles between France and Great Britain, of the 20th January 1783, and was acceded to by the United States: (*k*)

"That such vessels and effects as should be taken in the channel and in the north seas, after the space of twelve days, to be computed from the ratification of the said preliminary articles, should be restored on all sides. That the term should be one month from the channel and the north seas, as far as the Canary Islands inclusively, whether in the Ocean or in the Mediterranean; two months from the said Canary Islands as far as the Equinoctial line or Equator; and lastly, five months in all other parts of the world, without any exception, or any other more particular description of time or place."

In this instance the term "North Seas" must have been understood to include the Baltic: but, as a distinct term for the limitation of captures was assigned to the channel and the north seas, it was necessary to distinguish both by their special names; and no inference can thence be drawn, whether they were, or were not, understood to be distinct seas from the Atlantic Ocean.

As the same term is assigned for the Ocean and the Mediterranean, their being distinctly specified by their respective names proves, that they are there considered as distinct seas. But the term "Ocean," which, in reference to the coast of America, can only mean the Atlantic Ocean, is there made to comprehend all its other inlets and bays, without even excepting the Gulf of Mexico; since it was not deemed necessary to enumerate any of them specially.

Similar terms of limitation had in the negotiations at Ghent been, in the first instance, proposed by the American, and in substance agreed to by the British Plenipotentiaries. (*l*) To these the American Ministers proposed afterwards the following alteration: (*m*)

"The term to be fifteen days in the channel, in the north seas, in all parts of the Atlantic Ocean to the equinoctial line or equator, and in all parts of the Mediterranean. Two months in the Atlantic Ocean, to the latitude of the Cape of Good Hope, and three months in all other parts of the world."

In this, as in the former instance, the words "Atlantic Ocean" clearly embrace all its American inlets and bays, without excepting the Gulf of Mexico. In the alteration proposed to this by the British Plenipotentiaries, and which will be analyzed in a subsequent part of this Statement, the term "Atlantic Ocean" embraces the Gulf of St. Lawrence, but is distinguished from "the Gulf of Mexico and all parts of the West Indies."

The provisions finally adopted in the treaty of Ghent throw no further light on the subject, on account of the terms in which they are expressed.

A still more conclusive argument was offered in the First American Statement, which has been anticipated in that of Great Britain. It is in order to weaken its force, that, at the same time that it is suggested in the British Statement, that all bays and gulfs

(*k*) Written Evidence, No. 9 (*r*)

(*l*) Written Evidence, No. 45.

(*m*) Written Evidence, No. 46

must be taken as so distinct from the seas and oceans, with which they are respectively connected, as to convert the generic term "Atlantic Ocean" into a mere specific designation, embracing neither of the inlets, bays, nor gulfs connected with it; an exception is attempted to be made, with respect to what is called another class of bays. These are stated to be "merely the expansions of the mouths of rivers, of which they bear the name," and to be "regarded in no other light than as portions of the rivers themselves."

As the Sagadahoc Bay and the Penobscot Bay, through which the rivers Kennebec and Penobscot empty themselves into the Atlantic, are specified by their names in Mitchell's Map, it was felt that, unless such an exception could be made, the conclusion was unavoidable, that, if the Bay of Fundy and the Gulf of St. Lawrence must be considered as distinct from the Atlantic Ocean for all the purposes of the treaty, there was no river which could, under that instrument, be considered as falling into that Ocean.

But there is no foundation for the distinction. The names of "bay" and "gulf" have been indiscriminately given every where to inlets differing as much in character as in size. The appellation of gulf is equally given to that of Lyons and to that of Finland, though of an entirely different character: of two inlets of the same character, one is called Hudson's *Bay*, and the other *Gulf* of St. Lawrence: and all that portion of the River St. Lawrence which extends from the mouth of the Sagueny to Cape Rosiers, might have been distinguished by the appellation of "Bay," with as much propriety, as what is called "Bay of Delaware." The name of "Bay" has in fact been given to inlets of every size and description. In Mitchell's Map various bays are designated, (Caseo Bay, Well's Bay, &c.) smaller than that of Penobscot, and which do not bear the name of any rivers emptying into them.

If there was any foundation for the broad assertion, that the term "Atlantic Ocean" does not in general embrace the Bays and Gulfs connected with that Ocean, it would rest solely on the fact, that such Gulfs and Bays are known by distinct names: and that fact is as true of the Sagadahoc and Penobscot Bays, as of the bay of Fundy or of the Gulf of St. Lawrence. If those Bays which are described in the British Statement, as the expansions of the mouths of rivers, can be regarded in no other light than as portions of the rivers themselves, those Bays also, which, like that of Fundy, are merely contractions of the Ocean, must necessarily be regarded only as portions of the Ocean itself.

Nor can the Penobscot Bay be at all considered as an expansion of the river of that name. That river discharges itself into the Bay in the same manner as the River St. Croix falls into the Bay of Passamaquoddy, which last bay is, by both Governments, held, not as an expansion of the River St. Croix, but as a part of the Bay of Fundy. (u) Both bays are formed by a number of islands, and they are not, as the Delaware may be considered, a continuation of the rivers which fall into them.

It cannot, at all events, be denied, that Long Island Sound, through which Connecticut River empties itself into the Atlantic Ocean, is a large inlet of the Atlantic, of as distinct and marked character as the Bay of Fundy; nor that the River Connecticut is, as much as the Penobscot and the Kennebec, one of the rivers described in the treaty as falling into the Atlantic Ocean, which are to be divided from the rivers falling into the St. Lawrence; since the boundary line extends along the dividing Highlands, as far as the North-westernmost source of that river.

The argument remains unshaken, that, (with the exception of such Bay or Gulf, as may be excepted by virtue of some other provision of the treaty,) if the rivers which fall into the Atlantic Ocean through a gulf, bay, or inlet, known by a distinct name,

(u) Written Evidence, No. 1. Treaty of Ghent, Art. 4.

Atlantic Ocean are not, in the clauses of the treaty in which such rivers are mentioned, to be held as "rivers falling into the Atlantic Ocean," there is not a single river, contemplated by the treaty as such, to which the description applies.

Finally, it is only necessary to refer to the clause of the treaty of 1783, now under consideration, to be satisfied that its meaning admits of no doubt.

The words are : "The Highlands which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean."

In that sentence, not only the Atlantic Ocean is neither united with nor distinguished from the Bay of Fundy nor the Gulf of St. Lawrence, but it is expressly distinguished from the River St. Lawrence, and from that river alone. And this is the peremptory reason, why the "rivers that fall into the Atlantic Ocean" must, in that clause, be necessarily understood to embrace all the rivers which fall into any of the inlets of that ocean, with the sole exception of those which empty themselves into the River St. Lawrence, and from which they are to be divided.

§ 3.

OBJECTION DERIVED FROM THE DESIGNATION OF THE BAY OF FUNDY, AS DISTINCT FROM THE ATLANTIC OCEAN.

Bay of Fundy

In that clause of the treaty which has heretofore been considered, the rivers which fall into the Atlantic Ocean are distinguished only from those which empty themselves into the River St. Lawrence. But, in another sentence of the same article, and in reference to another part of the boundary, the Bay of Fundy is twice designated by its specific name, and once, as contradistinguished from the Atlantic Ocean. It is thence inferred, in the British Statement, that those terms, "Bay of Fundy" and "Atlantic Ocean," "being taken as distinct and separate, the one from the other, in one part, (of the treaty,) they must surely be equally so considered in every other part; for it would be contrary to all reason and consistency, to assign one meaning to a term in one clause, and a different meaning to the same term in another clause of the same instrument."

This sweeping inference, in support of which not a single argument or authority has been adduced, is altogether denied by the United States. They contend, that it would be equally contrary to reason and common usage, to assign the same meaning to a term in one clause, which it may have in another clause of the same instrument, when it appears from the general tenor of the two clauses, and the expressions used in each respectively, that the term, in one is restrained by those expressions, and has, therefore, a narrower signification; whilst, in the other, it is used in a more general sense, or is restrained in a different manner.

In one of the clauses of the treaty, the term "Atlantic Ocean" is contradistinguished from, and must, in construing that clause, be held as distinct from the Bay of Fundy. In another clause of the treaty, the same term is contradistinguished from the River St. Lawrence alone, and must, accordingly, in construing that clause, be held as distinct from that river alone, and not from the Bay of Fundy, nor from any of the other inlets, which, in its general sense and common acceptance, are part of the Atlantic Ocean.

This is perfectly consistent with the appropriate rules of language, by which every instrument must be construed. But as it is obvious that the objection, on the part of Great Britain, rests exclusively on the inference thus attempted to be drawn, we will now proceed to establish the correctness of our own construction, by unexceptionable authorities, taken from British documents immediately connected with the subject.

1. The boundaries of the Grant to Sir H. Roswell and others, by Charles I., dated the 4th day of March, 1628, and commonly called "the *Colony* Charter," as quoted

in the Charter of the *Province of Massachusetts' Bay*, were described in the following words, viz: Bay of Fundy

“All that said part of New-England, in America, which lies and extends between a great river commonly called Monomae, alias Merimack River, and a certain other river, there called Charles River, *being in the bottom of a certain bay, there commonly called Massachusetts, alias Mattachusetts, alias Massatusetts Bay*: and also all and singular those lands and hereditaments whatsoever, lying within the space of three English miles, on the South part of the said river called Charles River, or of any or every part thereof: and also, all and singular the lands and hereditaments whatsoever, lying and being within the *space of three English miles to the Southward of the Southernmost part of the said bay called Massachusetts, alias Mattachusetts, alias Massatusetts Bay*: and also, all those lands and hereditaments whatsoever, which lie and be within the space of three English miles to the Northward of the said river called Monomack, alias Merimack, or to the Northward of any and every part thereof, and all lands and hereditaments whatsoever, lying within the limits aforesaid, North and South in latitude and breadth, and in length and longitude, of and within all the breadth aforesaid throughout the main lands there, from the Atlantic or Western Sea and Ocean on the East part, to the South Sea on the West part.” (o)

The Eastern front of more than one half of the Grant extended, from North to South, along that certain bay, commonly called Massachusetts' Bay. Nevertheless the depth, or length and longitude of the Grant, is described as being “of and within all the breadth aforesaid throughout the main lands there; from the *Atlantic* or Western Sea and *Ocean* on the *East* part, to the *South Sea* on the *West* part.”

The term “Atlantic Ocean,” which had not been used in the description of the Eastern boundary along the sea coast, is afterwards used, as embracing the Bay of Massachusetts, though this had in another sentence been designated by its specific name. For if that bay was not, in the last sentence, included in that generic term, there would have been, to that part of the Grant which fronts on the bay, no Western boundary assigned: the length or longitude being described as extending to the South Sea on the West, from the *Atlantic Ocean*, without naming Massachusetts' Bay on the East.

2. It has been stated, in the British Statement, that, “in the Grant of Nova Scotia, by James I. to Sir William Alexander, the Bay of Fundy and the Gulf of St. Lawrence, are specifically described, and distinguished, the former from the adjacent parts of the Sea, and the latter, as well from the Sea as from the River St. Lawrence.”

The Bay of Fundy is certainly, in that Grant, distinctly described, not indeed by that name, which it had not yet received, but as the Great Eastern Inlet, which runs between the countries of the Souriquois and Etehemins. It is mentioned with great propriety, in order to designate with precision the position of St. Mary's Bay and of the River St. Croix, both hardly then known by those names, and the situation of which is thus determined, as lying respectively on the South and North side of the entrance of the Bay of Fundy.

The Gulf of St. Lawrence is also specifically described, as the boundary of the Grant, from Gaspé to Cap-Breton. But neither the words “sea,” nor “Atlantic Ocean” are used, in describing the boundary from Cap-Breton to Cape Sable: And the word “Sea” is afterwards used, as expressly embracing both the Bay and Gulf aforesaid; as will clearly appear by the following clause of the Grant, viz:

“Including and comprehending, within the aforesaid shores of the Sea and their circumferences, *from Sea to Sea*, all continents, with the rivers, torrents, bays, shores, *islands, or seas*, lying near or within six leagues of any part of the same, from the

Western, Northern or Eastern parts of the same shores or precincts; and from the South-east, where lieth Cape Breton, and from the *Southward* part thereof, (where Cape Sable is,) *all seas* and islands towards the South within forty leagues of the said shores thereof." (p)

The word "Sea" is there, as well as wherever else it occurs in the Grant, used in its general sense, and embraces both the Bay of Fundy and the Gulf of St. Lawrence. The Grant of Islands and *Seas*, whether for six leagues, from the West, North and South, or for forty from the South, is expressed in the same words (*maribus, omnia maria.*) The seas thus granted and described, as extending from the North and East, could be no other than the River (q) and Gulf of St. Lawrence. The seas extending from the South are the main Atlantic Ocean. The emphatic words "from sea to sea" (*à mari ad mare*) most clearly mean and can mean nothing but, "from the main Atlantic and Bay of Fundy to the River and Gulf of St. Lawrence."²

Thus we have a direct instance, where, the Bay of Fundy and the Gulf of St. Lawrence being, in one clause of the Instrument, specifically described and distinguished by their respective names, the general term "Seas" is nevertheless used and understood, in other clauses of the same Instrument, as embracing the said Bay and Gulf.

The term "Seas" is uniformly used, in the Grant, instead of that of Atlantic Ocean. It will not be denied that they are, as to its object, perfectly synonymous; and we find another proof of this, as well as of the general meaning of the words used in the Grant, in a publication of the year 1624, by the Grantee himself, Sir Wm. Alexander; where, speaking of the limits of his Patent, he says, "leaving the limits to be appointed by his Majesty's pleasure, which are expressed in the patent, granted unto me under his great seal of his Kingdom of Scotland, (marching upon the West towards the river of St. Croix, now Tweed, where the Frenchmen did design their first habitation,) with New England; and on all other parts, it is compassed by the Ocean, and the Great River of Canada." (r)

The Grantee seems to entertain some doubts, as to the certainty of the limits between New England and his Grant; which probably arose from the manner in which the Northwardly line, from the River St. Croix to the River St. Lawrence, is described in it. But he says expressly, that, on all other parts, it is compassed by the River St. Lawrence and by the Ocean; which last term therefore clearly embraces the Bay of Fundy and the Gulf of St. Lawrence.

3. In all the Commissions of the Governors of Nova Scotia, from the year 1765, to the year 1782, (s) this Province is described, as being "bounded on the Westward by a line drawn from Cape Sable, across the entrance of the Bay of Fundy, to the mouth of the River St. Croix; by the said river to its source, and by a line drawn due North from thence to the *Southern boundary of our Colony of Quebec*; to the Northward by the *said boundary* as far as the Western extremity of the Bay des Chaleurs; to the Eastward by the said Bay and the Gulph of St. Lawrence, to the Cape or Promontory called Cape Breton in the Island of that name; . . . and to the Southward by the Atlantic Ocean, from the said Cape to Cape Sable aforesaid, includ-

(p) "Includens et comprehendens intra predictas maris oras litorales ac earum circumferentias *à mari ad mare*, omnes terras continentes cum fluminibus, torrentibus, sinibus, littoribus, *insulis, aut maribus* jacentibus propè aut infra, sex leucas ad aliquam earundem partem, *ex Occidentali, boreali et Orientali* partibus orarum littoralium et præcinctuum earundem, et ab Euronoto ubi jacet Cap-Breton, et *ex australi* parte ejusdem (ubi est Cap de Sable) *omnia maria ac insulas* versus meridiem intra quadraginta leucas dictarum orarum littoralium earundem."

(q) The shores of the River St. Lawrence are, in the Grant, called *Sea Shores* "per *maris oras* litorales ejusdem fluvii de Canada."

(r) See Egbert Benson's Report to President—Written Evidence, No. 36.

(s) Written Evidence, No. 13.

ing the Island of that name, and all other Islands within forty leagues of the Coast," Bay of Fundy &c.

The Southern boundary of the Colony of Quebec, there referred to as being the Northern boundary of Nova Scotia, is, in the commissions of the Governors of that Province issued during the same period, described in the same words as in the Proclamation of 1763, or the Quebec Act of 1774; that is to say, either, as passing "along the Highlands which divide the rivers that empty themselves into the said River St. Lawrence, from those which fall into the Sea, and also along the North Coast of the Bay des Chaleurs;" or, as being "a line from the Bay of Chaleurs, along the Highlands which divide the rivers that empty themselves into the River St. Lawrence from those which fall into the Sea, to a point in 45 degrees of Northern latitude, on the Eastern bank of the River Connecticut." (1)

In defining the boundaries of Nova Scotia, the Bay of Fundy, the Gulf of St. Lawrence, and the Atlantic Ocean are each specially designated and distinguished from each other; the appellation of Atlantic Ocean being expressly confined to the Main Ocean, exclusive of that Bay and Gulf, and to that portion of it only, which extends from Cape Breton to Cape Sable.

Now, whatever point of the line drawn due North from the source of the River St. Croix may be considered as the North-west Angle of Nova Scotia; or, in other words, whatever point on that line may be considered as the point of intersection with the Southern boundary of the Colony of Quebec, as described in the commissions of the Governors of that Colony; whether that point of intersection, or North-west angle of Nova Scotia, be Mars' Hill, or any other point north of it; it is impossible to draw any line whatever, from that point of intersection or North-west angle of Nova Scotia, to the Western extremity of the Bay des Chaleurs, which will or can divide from each other, cross, or touch any other river or rivers whatever, but such as fall, either into the River St. Lawrence, the Gulf of St. Lawrence, or the Bay of Fundy.

No river whatever falls into that portion of the Atlantic Ocean which extends from Cape Breton to Cape Sable, but such as have their sources within the Peninsula or present Province of Nova Scotia, South of the Bay of Fundy, of the Gulf of St. Lawrence, and of the Isthmus, which separates those two inlets. It is impossible that any such river should be, either divided from other waters, intersected or touched by any line, that can be drawn from any point, north of the source of the River St. Croix, to the Western end of the Bay des Chaleurs.

The rivers therefore which, according to the designation of the Southern boundary of the Colony of Quebec, or Northern boundary of Nova Scotia, are to be divided, by that boundary, from the rivers emptying into the River St. Lawrence, and are there described, as rivers falling into the sea, (a term used in the Proclamation of 1763 as synonymous with Atlantic Ocean,) must of necessity be those, and those alone, which fall either into the Bay of Fundy, or into the Gulf of St. Lawrence.

Thus, although the term "Atlantic Ocean" is, in one part of the description of the Boundary, used in a limited sense, and exclusive of the Bay of Fundy and of the Gulf of St. Lawrence; its synonymous term "Sea," in another part of the description, and in reference to the division of the rivers which are intended to be divided by the treaty, embraces and embraces nothing but that Bay and Gulf.

4. After the treaty of 1783, the Northern part of Nova Scotia was erected into a New Province, by the name of New Brunswick; and the Bay of Fundy, together with the Isthmus which separates it from the inlet of the Gulf of St. Lawrence called "Bay Verte," were made the Southern Boundary of the New Province. In the subsequent commissions of its Governors, the Southern Boundary of the Province of

(1) Written Evidence, No. 21

Bay of Fundy. Quebec, (or Lower Canada,) continues to be declared the Northern Boundary of that of New Brunswick. But the words "Atlantic Ocean," for the sake, it is presumed, of conforming literally with the expressions used in the treaty of 1783, are, in reference to the division of rivers, substituted to the word "Sea," in the commissions of the Governors of Quebec or Canada, of a date subsequent to the treaty. (*u*) And, for the same reason already assigned, it is evident that the rivers there described, as falling into the Atlantic Ocean, must necessarily be such as fall either into the Bay of Fundy or the Gulf of St. Lawrence, and therefore that both are embraced by the general term "Atlantic Ocean."

5. Another instance will be found in the commission of 16th March, 1772, of the Governor of Newfoundland, as quoted in that of Guy Carleton, Governor of the Province of Quebec, dated 27th December, 1774. The Islands of Madelaine are there described as lying in the Gulf of St. Lawrence; and the Labrador River St. John, which has its mouth in that Gulf, as falling into the Sea. Thus, notwithstanding the designation of the Gulf by its specific name, in one clause of the commission, the word "Sea," is used in another clause, not only as embracing the Gulf, but instead of its specific designation. (*v*)

It is believed that after what precedes, and having examined the authorities referred to, it will no longer be asserted, that the terms "Sea" and "Atlantic Ocean," do not comprehend, and have not been used, as embracing their subordinate inlets, bays, or gulfs; particularly the Bay of Fundy, and the Gulf of St. Lawrence, and in reference to rivers described as falling into the Sea, or Atlantic Ocean.

But the principal object, was to shew, and it has also been conclusively proved, that different meanings may, without inconsistency, be given, and have in those British public acts, been assigned to the same term, in different clauses of the same instrument. And it will not escape notice, that the proofs are drawn exclusively from documents connected with the contested Boundary, that the description in the treaty of 1783 of that Boundary was borrowed from the commissions which have been quoted, and that most of the quotations refer expressly to the Bay and Gulf, which are the subject matter of this discussion.

Since, therefore, the use, in one part of the treaty, of the terms "Bay of Fundy" and "Atlantic Ocean," as distinct the one from the other, cannot, in any degree, restrain or affect the natural sense of the term "Atlantic Ocean," in another clause of the treaty, where it is used as distinct and separate from the River St. Lawrence alone; it would not seem necessary to inquire into the reason, why the Bay of Fundy was specially designated and distinguished, in the last clauses of the second article of the treaty.

Yet, if it can be shewn, that there was a natural reason, or a special motive for making that distinction in those clauses, and that such reason and motive were applicable to those clauses alone, there will not remain even a pretence for asserting, that the distinction, thus made in a part of the treaty for a particular purpose, can be construed to extend to another clause, to which the distinction and the reasons for it were wholly inapplicable.

The United States are declared by the treaty, to be bounded "South by a line to be drawn along the middle of St. Mary's River to the Atlantic Ocean. East by a line to be drawn along the middle of the River St. Croix, from its mouth in the Bay of Fundy to its source; comprehending all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due East from the points where the aforesaid Boundaries between Nova Scotia, on the one part, and East Florida, on the other, shall respectively touch the Bay of Fundy and the Atlantic Ocean."

(*u*) Written Evidence, Nos. 37 and 38.

(*v*) Written Evidence, No. 21.

And it is urged, that the last designation of the Bay of Fundy must have been for ^{Bay of Fundy} some other purpose, than in reference to the Eastern Boundary of the United States; since, had there not been another object in view, it was unnecessary to mention that Bay; and the lines might have been described as correctly, by using the words, "due East from the points, where the aforesaid Boundaries between Nova Scotia, on the one part, and East Florida on the other, shall respectively touch the Atlantic Ocean."

The Eastern extremity of the Southern Boundary of the United States was, in the first instance, designated to be the point where the St. Mary's River touched, or had its mouth, in the Atlantic Ocean. And the Southern extremity of their Eastern Boundary was likewise designated to be the point where the River St. Croix had its mouth in, or touched, the Bay of Fundy.

All the Islands, between lines to be drawn due East from those two points, were afterwards declared to be comprehended within the United States. In designating, therefore, in the last sentence, those two points, precision of language required, that they should be described in the same terms as in the preceding sentence, where they had been designated, as respectively touching the Bay of Fundy and the Atlantic Ocean. It would have been a most incorrect and inapposite use of language, after those points had thus been designated, to have immediately after described them as the points where the *aforesaid* Boundaries shall respectively touch the Atlantic Ocean.

The apparent distinction, therefore, made in the last sentence, between the Bay of Fundy and the Atlantic Ocean, is only in reference to those two points, and arises from the manner in which they had been respectively designated in the preceding sentence. It is solely because the River St. Croix is, in the first instance, described as having its mouth in the Bay of Fundy, that it became again necessary and proper to designate, in the last instance, the point from which the East line was to be drawn, (namely the mouth of the River St. Croix,) as touching that Bay. Why the River St. Croix was thus described, can alone require an explanation: and it will now be shewn, that there was for this a natural, and on the part of the American Negotiators, an important reason.

It has already been seen, that the River St. Croix was designated in the same manner in the original grant of Nova Scotia to Sir William Alexander, for the necessary purpose of describing, with precision, the position of a river, then hardly known in England, and on which the name of St. Croix had been imposed, if imposed at all, but a few years before by the French. The same designation was evidently borrowed from that grant, in the description of the Boundaries inserted in the commissions of the British Governors of that Province. After the negotiators of the treaty of 1783 had finally agreed to confirm the River St. Croix, as the Boundary between the dominions of the two Powers, it was natural that they should, and it would indeed have been an extraordinary course, if they had not adopted the same terms, in describing the situation of the river, which had been so long in use in the public British documents, and which had been preserved uninterruptedly to the very date of the treaty. (w)

This mention of the fact that the River St. Croix had its mouth in that inlet of the Atlantic Ocean known by the name of Bay of Fundy, can have no more effect on other clauses of the treaty than in Alexander's Grant, or the Governors' Commissions. And it has already been shewn, with respect to both, that notwithstanding that specific mention by name of "Bay of Fundy" and of "Gulf of St. Lawrence" in the description of the boundary, both that bay and gulf were embraced by the generic term used in another clause.

(w) See Written Evidence, No. 15. In the Commission to Governor Parr, dated 29th July, 1782, the words are, "bounded on the westward by a line drawn from Cape Sable across the entrance of the Bay of Fundy, to the mouth of the River St. Croix, by the said river to its source," &c.

Bay of Fundy.

But there was also another and peremptory reason why the American negotiators must have insisted that the River St. Croix should continue to be designated as having its mouth in the Bay of Fundy.

The repeated attempts, on the part of the crown, to encroach in that quarter on the chartered boundaries of the Province of Massachusetts' Bay, have already been mentioned. The Government of Nova Scotia, pursuing the same course, had in the year 1765 made a large grant of land to Francis Bernard, and others, *west* of the Schoodie River, (*x*) which has ultimately been decided to be the true St. Croix. That Government had, also, in the year 1767, granted to William Owing, and others, the island now known by the name of Campo Bello; (*y*) and it laid a claim to that of Grand Menan. Both those islands are situated south of a line drawn due east from the mouth of the Schoodie. That of Grand Menan, according to Mitchell's Map, lies chiefly *west* of the line designated in the Commissions of the Governors of Nova Scotia, as a line "drawn from Cape Sable across the entrance of the Bay of Fundy, to the mouth of the River St. Croix," or Schoodie. Both have finally been adjudged to Great Britain, as being in 1783, or having theretofore been, within the *limits* of Nova Scotia. (*z*)

A conclusive proof of the general prevailing uncertainty as to what river was the true St. Croix, will be found in the topographical description of the Middle British American Colonies, published in 1776, by T. Pownall, M. P. for several years Governor of His Majesty's Province of Massachusetts' Bay, and which has been quoted with a high encomium in the British Statement. His words are:

"The River Passam-Aquâda, or Possam-Accâda, which runs into a bay so called, is the supposed eastern boundary of New England; to the east of this begins Aquâda or Nova Scotia: *an uncertain River St. Croix* is the nominal boundary. But as the French, according to their mode of taking possession, always fixed a cross in every river they came to, *almost every river on this coast of Sagadahoc* has in its turn *been deemed* by them *La Rivière de St. Croix*. Under equivocation of this general appellation, they have amused our negotiators on every occasion." (*a*)

It will be recollected that by "Sagadahoc" is meant the ancient grant to the Duke of York, or that tract of land described in the Charter of Massachusetts, as lying between Nova Scotia and the (old) Province of Maine; that it is thus laid down in Mitchell's Map; and that as the "Coast of Sagadahoc" extends accordingly from the Bay of Passamaquoddy to that of Sagadahoc, (or Kennebec,) it was according to Pownall uncertain which of the rivers between those limits was the true St. Croix.

Whether the fact alleged there, with respect to the French, was correct or not, is immaterial; nothing can shew more forcibly how general was the opinion of the uncertainty arising from that cause, than to find it entertained by a late Governor of the Province of Massachusetts' Bay, one of the men of the time best acquainted with American affairs, and asserted by him thirteen years after the cession by France of all her possessions in North America, when there was no longer any motive for misrepresentation, or cause for prejudice.

In the same manner, Mr. Jay, one of the negotiators of the Treaty of 1783, in his deposition laid before the Commissioners appointed pursuant to the 5th Article of the Treaty of 1794, expresses himself as follows: "In settling the boundary line (described in the Treaty,) and of which the River St. Croix forms a part, it became a question, *which of the rivers in those parts was the true River St. Croix; it being said that several of them had that name.* They did finally agree that the River

(*x*) Written Evidence, No. 34.

(*y*) Called "Outer Passamaquoddy Island," in the Grant. Written Evidence, No. 34.

(*z*) Written Evidence, No. 2.

(*a*) Written Evidence, No. 40.

St. Croix, laid down on Mitchell's Map, was the River St. Croix which ought to form a part of said boundary line." (b)

So strongly impressed was that belief, that it is found again asserted, twenty years later, in the argument addressed in 1797 by the British Agent to the said Commissioners, (who were appointed only to decide which river was the true St. Croix,) when the Agent was arguing that the Schoodie and not the Magaguadavic, (Mitchell's St. Croix,) was the river intended by the Treaty of 1783.

After advertng to an Act of Parliament of the year 1774, (15 Geo. III. ch. 10,) for restraining the trade of Massachusetts' Bay, and other colonies, in which it is enacted, "that the river which emptieth itself in Passamaquoddy Bay, on the western side, and is commonly called and known by the name of St. Croix River, be held and deemed, for all the purposes in this act contained, to be the boundary line between the Provinces of Massachusetts' Bay and Nova Scotia;" and after asserting that the river thus designated, was that contemplated by the Treaty of 1783, and which ought accordingly to be declared the true River St. Croix, the British Agent proceeds as follows:

"If this principle were once departed from, there would be no check to contention on the subject, though it would be fortunate to His Majesty's interests if he were not thus bound; as it might be clearly shewn in that case, that the *River Penobscot, once indiscriminately with the other rivers upon this coast called the St. Croix, was the true boundary* by which Nova Scotia or Acadia was ceded to His Majesty by the Treaty of Utrecht, and ought in such case, by the principles of the Laws of Nations, to be established as the *eastern boundary of the United States.*"

And he again says, in answer to the Agent of the United States, who contended that the Magaguadavic was the true St. Croix:

"The argument of the Agent of the United States would certainly apply with much greater force in proving the *Penobscot* to be the river agreed to; as *this river, besides being once known indiscriminately with the other rivers by the name of St. Croix*, has been the reputed boundary of Nova Scotia, and was contended for as such by the British Commissaries at Paris, in the year 1750, in their memorials concerning the limits of Acadia or Nova Scotia." (c)

It will be readily perceived, that since the River St. Croix had, by the Treaty of 1783, been declared to be the boundary, the Penobscot could not, in the year 1797, have been claimed as such on any other ground than as being itself the true St. Croix. The British Agent asserts that it ought, and would under the Treaty, have been considered as such, had not a previous act of Parliament declared the St. Croix to be a river which emptied itself into Passamaquoddy Bay. But that act would have given no security against an attempt on the part of Great Britain to claim the Penobscot as the true St. Croix and the boundary intended by the treaty; since the River St. Croix, that empties itself into the Bay of Passamaquoddy, is, by the act of Parliament, to be held and deemed the boundary between the Provinces of Massachusetts' Bay and Nova Scotia, *only for the purposes contained in the act*; and since, therefore, that temporary enactment, made for the special purpose of embracing within the provisions of the restraining act all the population west of Passamaquoddy Bay, had expired with the act itself. (d)

(b) Written Evidence, Nos. 23 and 36.

(c) Written Evidence, No. 35.

(d) The reason why the British Agent adverted to the Act of Parliament which was inapplicable, and not to the Treaty, is obvious. He was attempting to shew that the westernmost of the two rivers that empty themselves into Passamaquoddy Bay, was the true St. Croix. The Act of Parliament had made a provision to that effect; and the Treaty had only generally declared the mouth of the River St. Croix to be in the Bay of Fundy.

Bay of Fundy.

It was that provision in the treaty itself, declaring the mouth of the River St. Croix to be in the Bay of Fundy, which afforded the security required in that respect.

Under the prevailing belief, that the designation of a River St. Croix, by that name only, was not sufficient to determine which river was the true St. Croix, and with the knowledge of the anxious desire evinced by Great Britain to extend, under color of that uncertainty, the boundaries of Nova Scotia to the Penobscot, the insertion of that provision in the treaty was of paramount importance to the United States.

By declaring the mouth of the River St. Croix to be in the Bay of Fundy, the only question which might remain susceptible of doubt, was, which of the two rivers that empty themselves into Passamaquoddy Bay was entitled to the designation of River St. Croix? The Western extremity of the last mentioned bay, or at farthest of Grand Menan Island, forms also the Western extremity of the Bay of Fundy, as will be seen by Mitchell's Map, by the Map A, and by reference to what is described as the entrance of the Bay of Fundy, in Sir William Alexander's Grant. Not only was every pretence to claim the Penobscot, as the true St. Croix, removed by that provision, but no river whatever could be claimed as such, that lay West of Passamaquoddy Bay: since, as will appear by Mitchell's Map, Machias River, which is the next in that direction, lies West of the Western extremity of Grand Menan Island.

It may, perhaps, be asked why, with Mitchell's Map before them, where the mouth of the River St. Croix is laid down, as it really is, in Passamaquoddy Bay, which is there designated by its distinct name, that river was not, in the treaty, declared to have its mouth in that bay, instead of the Bay of Fundy?

Such specific designation of the Passamaquoddy Bay was unnecessary; since it would not have rendered the description more precise, with respect to the object in view. Every river West of the Island of Grand Menan was equally excluded, whether the mouth of the River St. Croix was declared to be in the Bay of Fundy, or in that of Passamaquoddy; and either designation would have left it equally doubtful, which of the two rivers was the true St. Croix. The negotiators being unacquainted with the Indian names of the rivers in that quarter, could not have used expressions more precise than those of the designation which they adopted, and which had prevailed from the date of Sir William Alexander's Grant to that of the treaty.

But this leads to another observation. With Mitchell's Map before them, and a full knowledge that the River St. Croix had its mouth in the Bay of Passamaquoddy, the negotiators of the treaty of 1783 declared it to be in the Bay of Fundy. The Commissioners appointed pursuant to the 5th article of the treaty of 1794, to decide which, according to the treaty of 1783 was the true River St. Croix, did not hesitate, notwithstanding the treaty designation of the Bay of Fundy, to declare in their decision, (e) that "the mouth of the said river (St. Croix) is in Passamaquoddy Bay, at a point of land," &c. That bay is clearly a part of that of Fundy, and has been acknowledged to be such in a subsequent instrument. (f) The designation in the treaty and the decision of the Commissioners afford an additional proof, that the general term is always understood to embrace its subordinate parts, unless such part be specially excepted.

It will not now be denied that there were urgent reasons, abundant cause, for designating in a special manner, with as much precision as could be obtained from the materials in hand, the place where the mouth of the intended River St. Croix was to be found. Notwithstanding the precautions taken in that respect, the river contemplated by the negotiators, that which in Mitchell's Map bears the name of St. Croix, has not been confirmed as the boundary between the two countries. The Schoodiac, the

(e) Written Evidence, No. 2.

(f) The Treaty of Ghent, Art. 4.

most *Westerly* river that empties into Bay Fundy, has been decided to be the true St. Croix. But from what has been stated, and indeed, judging from the arguments adduced in support of the claim now advanced by Great Britain, it may be fairly presumed, that the field of English pretensions would have been extended far beyond the Schoodiac, had it not been limited to rivers having their mouth in the Bay of Fundy.

Can it be now pretended that this precaution, the special designation made for a particular and obvious object, necessary in order to obtain the object to which it applied, was intended and can be made to extend to another object, and to have an effect on the construction of another and distinct provision of the treaty? Can it be contended that, because it was necessary to specify in what part of the Atlantic Ocean the River St. Croix emptied itself, it follows, that when speaking, in another clause of the treaty, of that Ocean, not in reference to that part, but as contradistinguished exclusively from the River St. Lawrence, it must be so understood, as to exclude that part of it, (the Bay of Fundy,) which, for that particular, and for no other reason, it had been requisite so to specify? It is obvious, that it is only in case there had been no necessity to use the designation of "Bay of Fundy" where it is used, that there would have been any color for the pretended inference, that that designation was made for all the purposes of the treaty, or was intended to control the construction of any other of its provisions.

§ 4.

OBJECTIONS TO THE RIVER ST. JOHN, DERIVED FROM OTHER SOURCES THAN THE TERMS OF THE TREATY.

Having shewn how destitute of any foundation is the inference attempted to be drawn from certain expressions in the treaty, we will now proceed to examine the reasons derived from other sources, which have been alleged, in order to sustain the assertion, that the River St. John, which falls into the Bay of Fundy, was not intended, by the framers of the treaty, to be included in the class of rivers therein described as falling into the Atlantic Ocean.

Negotiations of
1783.

It has already been stated (*g*) that Congress, in their first instructions, of August 11th 1779, had declared the United States to be bounded:

"North, by a line to be drawn from the North-west angle of Nova Scotia, along the Highlands which divide those rivers which empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, to the North-westernmost head of Connecticut River; and East by a line to be drawn along the middle of St. John's River, from its source to its mouth in the Bay of Fundy. (*h*) If the Eastern boundary above described cannot be obtained, you are hereby empowered to agree that the same shall be afterwards adjusted by Commissioners, to be duly appointed for that purpose, according to such line as shall be by them settled and agreed on, as the boundary between that part of the State of Massachusetts Bay, formerly called the Province of Maine, and the Colony of Nova Scotia, agreeably to their respective rights."

Although those instructions had been declared, by those of 15th June, 1781, to be no longer peremptory, (*i*) the boundaries were defined, in the above mentioned terms, in the first propositions of the Commissioners of the United States, which were provi-

(*g*) Written Evidence, No. 8, page 251.

(*h*) The mouth of the River St. John is there described to be in the Bay of Fundy, for the sake of precision; there being several of that name, amongst others, one which has already been mentioned, and forms one of the boundaries of the Province of Quebec, according to the Proclamation of 1763.

(*i*) Written Evidence, No. 8, page 253.

Negotiations of
1782.

sionally agreed to, on the 8th of October, 1782, by the British Commissioner, substituting however to the description of the Eastern boundary, the other alternative suggested by Congress, namely, that the true line between Nova Scotia and the United States should be settled by Commissioners, as soon as conveniently might be after the war.

After some discussions, during which the British contended that Nova Scotia should extend to the river Kennebec or to the Penobscot, and one of the American Ministers, after again proposing the River St. John, agreed with his colleagues to adhere to the Charter of Massachusetts' Bay, the boundary, as it is described in the treaty, was ultimately agreed to, instead of leaving it to be thereafter settled by Commissioners.

The following particulars are declared, in the British Statement, to be collected from those various instructions, propositions and transactions:

1st. That the mouth of the St. John River was, from the first, specifically described as being in the Bay of Fundy, while the Bay of Fundy was described as distinct from the Atlantic Ocean.

2dly. That the north-west angle of Nova Scotia was deliberately placed by the Americans themselves at the source of the River St. John; which source and north-west angle were by them taken as identical.

3dly. That the highlands intended to divide the rivers falling into the Atlantic Ocean from those falling into the St. Lawrence, are (in the American project) described in the very same terms which they now retain in the definite treaty of 1783.

Whence it is inferred, "that the highlands designated in the project, being then intended to divide the Androscoggin, Kennebec, and Penobscot Rivers alone, from those falling into the St. Lawrence, to the exclusion of the St. John, the highlands so described are still intended to divide the same rivers; and that from those rivers, therefore, the St. John is still intended to be excepted."

The highlands contemplated by the first American project were of the same character, but differed in extent, from those designated by the treaty of 1783. And the facts quoted in the British Statement prove the very reverse of the inference attempted to be drawn from them.

The highlands contemplated in the project and those described by the treaty had one common character, that of dividing the rivers which empty themselves into the River St. Lawrence from those that fall into the Atlantic Ocean. That property, being common to both, is in both instruments expressed in the same terms. But as they differed greatly in extent, the north-west angle of Nova Scotia, as determined by the treaty, being, according to either the British or the American claim, at least eighty miles east of that contemplated by the project, the terms are no longer the same. In that respect, in the two instruments. The place of beginning, or north west angle of Nova Scotia, is distinctly stated, in the project, to be at the source of the River St. John, and in the treaty, to be at the intersection of the highlands with the line drawn due north from the source of the River St. Croix. Supposing therefore that the highlands described in the project divided the St. Lawrence from the Atlantic rivers, to the exclusion of the St. John; and since that portion of the highlands, which extends from the above mentioned source of the River St. John to the termination of the aforesaid due north line, divides through nearly the whole of that extent the tributary streams of the St. John from those of the St. Lawrence; (k) it cannot be seriously asserted that the highlands of the treaty are, in that respect, either described in the very same terms, or are the same, and are intended to divide the same rivers as those contemplated in the project.

But the terms of the project, on which the British rely, actually prove that the River St. John, instead of being excluded, was there included amongst the rivers falling in-

(k) Or according to the British, from those of the Penobscot

to the Atlantic Ocean, to be divided by the highlands from those that fall into the River St. Lawrence. "Negotiations" 1782.

According to the projet, the United States were to be bounded North "by a line to be drawn *from* the North-west angle of Nova Scotia *along* the highlands which divide those rivers," &c. and East "by a line to be drawn *along* the middle of St. John River *from* its source *to* its mouth in the Bay of Fundy."

It has been justly observed, in the British Statement, that as "there is no mention made of any connecting line *between* the point of commencement of the Northern and that of the Eastern line; therefore they" (that is to say the North-west angle of Nova Scotia and the source of the St. John River) "must be taken as identical." And for the very same reason, because there is no mention made of any connecting line *between* the North-west angle of Nova Scotia and the dividing highlands, but on the contrary the northern boundary is "a line to be drawn, *from* the North-west angle of Nova Scotia," without any chasm or interruption whatever, "*along* the highlands which divide those rivers, &c. to the North-westernmost head of Connecticut River;" the North-west angle of Nova Scotia is, by the projet, placed on the very highlands which divide those rivers which empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean.

It is evident, that neither that particular spot of the highlands designated as the North-west angle of Nova Scotia, and from which issues the contemplated source of the River St. John, nor the portion of the said highlands which gives rise to more southern sources of that river, can divide, from the St. Lawrence rivers, any river whatever which falls into the Atlantic Ocean, except the St. John itself. That river is therefore necessarily included amongst those falling into the Atlantic, which are described in the projet, as divided by the highlands from the tributary streams of the River St. Lawrence.

And since the mouth of the St. John River was, in the projet, as correctly stated in the British Statement, specifically described as being in the Bay of Fundy, and the Bay of Fundy as distinct from the Atlantic Ocean, the descriptive terms used in the projet afford an additional and conclusive proof, that the designation in one clause of the article, of the Bay of Fundy by its specific name, for a particular purpose, and its being, in consequence of that designation, afterwards described as distinct from the Atlantic Ocean, does not affect, or restrain, the natural meaning of the terms "rivers that fall into the Atlantic Ocean," so as to exclude therefrom the River St. John, although it was, in reference to the mouth of that very river, that the Bay of Fundy was thus designated and distinguished by its special name.

To this no other reply can be made than that assertion, to which Great Britain is perpetually compelled to resort, namely: that it is not necessary that the highlands, expressly described as dividing certain rivers from each other, should actually divide the rivers intended to be divided. In this instance however, the United States must be allowed to have, in their own projet, ascribed their true signification to the words they used, and not to have intended, by "highlands which divide," highlands which *do not* divide the rivers therein mentioned.

It is further insisted, that, as the original claim on the part of the United States did not extend beyond the River St. John; and as a new and more contracted line was ultimately agreed on and substituted for that first proposed line, which had been rejected by Great Britain; it is impossible to suppose that that new line should have left to the United States a territory north of the River St. John, not included in their first claim.

The American claim to the River St. John was avowedly founded on the erroneous belief, that the Chartered Boundaries of Massachusetts' Bay extended eastwardly to that river. This appears on the face both of the instructions and of the projet. No

Negotiations of
1782.

other reason has been assigned for that belief, but that which is stated in the Report made on the 16th August, 1782, by a Committee of Congress, in the following words :

“As to the territory of Sagadahock, which is synonymous with the lands between the Province of Maine and Nova Scotia, conveyed by the new Charter, we can only observe upon the expression already cited from the Grant thereof to the Duke of York, that the ‘place called St. Croix adjoining to New Scotland, must mean the territory which went by that name. Had the river only been designed, it alone would have been mentioned. It seems to have been the practice of those times to denominate a country from a river which bounded it. The River Sagadahock accordingly, at first, gave its own appellation to the whole country as far as the river St. Croix, and afterwards to the country from thence to St. Johns, which had before been called St. Croix. The place, therefore, called St. Croix, adjoining to New Scotland, was most likely intended to describe the lands between the rivers St. Croix and St. Johns.” (1)

The reason there assigned is altogether insufficient. The tract of land lying between Nova Scotia and the old Province of Maine, which by its Charter is made part of the Province of Massachusetts’ Bay, is undoubtedly the same, commonly called “Sagadahock,” which had been granted to the Duke of York in the year 1667. But although there might be a want of precision in the description of the Eastern boundary of his Grant, there was none, so far as related to the River St. Croix, in the boundary as described in the Massachusetts’ Charter. The words are “the province of Main, the territory called Accada, or Nova Scotia, and all that tract of land lying between the said territories of Nova Scotia and the said Province of Main.” And Nova Scotia was, by the grant to Sir Wm. Alexander, bounded expressly on the West by the River St. Croix.

Of this insufficiency the Committee was aware, since they acknowledge that the country in question “cannot be proved to extend to the River St. John as clearly as to that of St. Croix.” (m) There is indeed much confusion, in all the portion of the report relating to this boundary, which evidently arises from the difficulty, to find some reasons to justify the claim to the River St. John, which, without a sufficient investigation of the subject, had been asserted in the Instructions of August 1779. (n) And the American negotiators of the treaty, after a full examination and discussion, did abandon the claim, on the express and avowed ground that it could not be sustained by the Charter of Massachusetts’ Bay.

Another line, (namely, the River St. Croix and a line drawn due North from its source,) which intersects the River St. John, was substituted in lieu of it. The effect of this was, to leave to Great Britain a portion of territory along the sea shore, West and South of the River St. John, which was included, and to leave within the United States an inland portion of territory beyond the River St. John, which was not included within the original American claim. It cannot, without ascribing a glaring absurdity to the American negotiators, be supposed, that, in agreeing to a substitution founded in their opinion in justice, they intended to abandon, not only the territory which was shewn to be without, but also that which they found to be clearly comprehended within, the boundaries of the Massachusetts’ Charter.

The fact, therefore, principally relied on in the British Statement, is, that the River St. John having been decidedly rejected by Great Britain as a Boundary, the line substituted must necessarily have been more contracted than that which had thus been rejected. And it is accordingly asserted, that the territory beyond the St. John, not

(1) Secret Journals, III vol. page 174. Written Evidence, No. 8, page 254.

(m) Secret Journals, Vol. III, page 171. Written Evidence, No. 8, page 253.

(n) This report is erroneously said, in the British Statement, page 17, to have been concurred in by Congress. The report was only committed, (Secret Journals, Vol. III, page 203) instead of being referred, (as proposed by the Committee,) to the Secretary for Foreign Affairs, and does not appear to have ever afterwards been acted upon.

included within the original American pretensions, and which the United States now claim under the treaty, contains 700 square miles more than that portion of territory West of the River St. John, originally claimed by them, and which, by the treaty, has fallen within the dominions of Great Britain.

In framing this argument, and in the assertion itself, every consideration belonging to the subject seems to have been forgotten or neglected.

A yellow line has been delineated, on the British transcript of the Map A, along the River St. John, from its mouth, to its most Southerly source in about $46^{\circ} 3'$ North latitude, and $69^{\circ} 50'$ West longitude, from Greenwich. This line is stated in the margin to be "the most favorable which Congress thought could be obtained in 1782." That most Southerly source is that which is considered by Great Britain as having been contemplated as the North-west Angle of Nova Scotia in the original American project: and the comparative calculation of the two territories, on which her argument is founded, has accordingly been made, beginning at that source, and thence following the course of that branch and of the main River St. John.

It is impossible, in the first place, that this Southern source, if known in 1782, should have been that which the United States had in view. The source contemplated in their project was on the highlands which divide the rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean. And the Southern source above described, lies twenty miles East of any part of those highlands, and issues from the highlands which divide the Penobscot from the St. John.

But that Southern, and apparently longest branch of the St. John, was not known in the year 1782. Its discovery is due to the explorations made in the years 1818, 1820, under the late Commission. The framers of the Treaty had not the benefit of the surveys and maps annexed to the proceedings of the Commissioners, from which the comparative contents of the two territories in question have been calculated in the manner mentioned in the British Statement: and they could have had no other data for such calculation than the maps existing at that time.

Supposing Mitchell's Map to have been that on which they relied, the most South-westerly source of the River St. John, which takes its rise in the dividing highlands, and that which gives the result most favorable to the British mode of calculating, is made, in that map, to terminate in a small lake, the western extremity of which is in about $69^{\circ} 18'$ W. longitude, $46^{\circ} 38'$ N. latitude, and about 34 miles South-east from Quebec. (o)

It will be easily verified, making the calculation according to Mitchell's Map, and taking that South-westerly source to have been the North-west angle of Nova Scotia contemplated in the first instructions of Congress, that the territory North of the St. John, not included within the original American claim, instead of containing 700 square miles more, is considerably less in extent than that portion lying west of the said river, which was claimed by the United States, according to those first instructions, and which by the treaty has fallen within the dominions of Great Britain. The British argument, being solely grounded on the contrary supposition, is therefore destitute of any foundation.

Yet this calculation is the most favorable to the British argument that could have been selected. It was utterly impossible that either the most Southern, and then unknown, source of the River St. John, or even Mitchell's Westernmost source of that river, could have been that which was contemplated in the American project, as the North-west angle of Nova Scotia. It was there proposed that the River St. John,

(o) This must have been the branch designated in Map A, as the west branch of the St. John, as they nearly agree both in latitude and in the distance and bearing from Quebec. The difference of nearly one degree in longitude arises from an error, which pervades the whole of Mitchell's Map.

^{negotiations of}
1772

from its source to its mouth, should be the boundary between the United States and Nova Scotia, leaving within the United States all the territory on the right bank, and giving to Nova Scotia the whole country on the left bank of the river, from its source to its mouth. It will appear at once, from an inspection of the Map A, and of Mitchell's Map, that, from either of those sources to the place where the due North line intersects the St. John, the whole country on the South-east side of the river would have thus been within the boundaries of the United States, and that on the North-west side within those of Nova Scotia. Whatever breadth might be allotted to that Province in that quarter, it is evident that its North-west angle must have been at some place bearing North-west from the said point of intersection, and far North, therefore, of either of those sources; the Westernmost being, on that supposition, the Western, and the Southernmost, nearly the South-west, instead of the North-west angle of Nova-Scotia.

In placing the North-west angle of Nova Scotia at the source of the River St. John, the source which must necessarily have presented itself to the Americans, and have been contemplated in their project, was that of the Madawaska or Temiscouata Lake, (*p*) both on account of its position, and as the only North-west branch known at that time; it having always, in a country uninhabited and without roads, been, as it continues to be, the ordinary communication between the country bordering on the River St. Lawrence and that towards the mouth of the River St. John.

The project originated in Congress. It is not at all in proof that, in designating the first claimed boundary, that body was guided by Mitchell's Map; and it is in proof, that they had before them Bowen's Map, which is quoted by the Committee as one entitled to credit. (*q*) It will be perceived, by a reference to that Map, how much smaller must have appeared the territory beyond the St. John, not included within the original claim, than that lying on the West side of the river, which was abandoned by making the River St. Croix the Boundary.

The inference drawn in the British Statement will appear still more extraordinary, if the comparative *value*, at the date of the treaty, of the two tracts of country in question, is taken into consideration. Even now, when, after the lapse of more than forty years, the inland country has, with the great increase of population and approximation of settlements, acquired a proportionate value and importance; its soil would, acre for acre, be considered as far less valuable than that of a territory, the greater part of which borders on the sea coast and tide water. But, in the year 1782, when the attention of both Powers had been and was so entirely turned to the country on the sea shore, along which alone there were any settlements at the time, it is quite preposterous to suppose that, believing the two tracts to be nearly equal in extent, their value could have been, in the opinion of either party, even a subject of comparison.

Fief of Madawaska

In the total absence of solid reasons, resort has also been had, in the British Statement, to an ancient French Grant, situated on the Madawaska River, and including the Lake Temiscouata, which, by virtue of subsequent sales, happens to be now claimed and occupied by a British subject.

This concession, known by the name of "Fief of Madawaska," was made on the 25th November, 1683, by the French Governor and Intendant of *La Nouvelle France* and *Acadie*, to Antoine Aubert, a French subject, and his wife.

(*p*) This is one of those laid down in Mitchell's Map as having its head opposite to the Wolves' River of the River St. Lawrence.

(*q*) Printed Map, No. 12. See Secret Journals of Congress, Vol. III. page 190. Written Evidence. No. 8, page 235.

After various mutations of property between French subjects, the Fief was, subsequently to the conquest of Canada by Great Britain, sold, on the 20th July, 1763, together with the *Seigneurie* of the River du Loup, situated on the River St. Lawrence, by the then French claimants, to General James Murray, the British Governor of Quebec. Both the Fief and the *Seigneurie* were, after an intermediate sale to H. Caldwell, finally sold, on the 2d of August, 1802, to Alexander Fraser, the present claimant.

It is asked, since there "exists an extensive possession, *incontestably Canadian*, held by virtue of the rights *derived to Great Britain* from the cession to her of Canada by France, far within the line of Boundary claimed by the United States, as having formed part of the Province of Massachusetts' Bay: on what possible ground can the United States, who, in preferring their claim in 1782, to territory in this quarter, professed to adhere to the Charter of Massachusetts' Bay, now lay claim to a territory which was granted to a French subject, by a French Governor of Canada, before the existence of the Charter of Massachusetts' Bay, and which has always formed an integral portion of Canada, whether held by France or Great Britain?"

It is sufficiently clear, that this possession is held as private property by A. Fraser, and that *his right* is derived from sales made by private individuals, and not at all from the cession of Canada to Great Britain. It is not perceived how the Fief, having, as mentioned in another part of the British Statement, "preserved its individuality under the original grant," that is to say, having been sold entire, and not in separate parcels, can possibly affect any national question. And it is altogether denied, that a grant to a French subject, by a French Governor of Canada, either before or after the existence of the Charter of the Massachusetts' Bay, can affect the limits or *sovereign* rights of the United States, so far as they may be founded on that Charter. The private rights of soil, from whatever source derived, are independent of the questions of boundaries and sovereignty, and, if doubtful, must be left to the decision of the proper tribunals.

It is quite notorious, and not at all disputed, that France did, to the very time of the conquest of Canada by Great Britain, claim the whole country which is watered by the River St. John, and its tributary streams, as a part of New France. There may be, for aught that is known to the contrary, hundreds of other French Grants on that river, and elsewhere, South of the southern boundary of the *British Province* of Canada, either in the contested territory, or within the acknowledged boundaries of the United States, or of the Province of New Brunswick.

The fact is acknowledged in the British Statement, (page 27,) which refers to the Report of a Committee of the Executive Council of the Province of Quebec, dated in the year 1787, where it is stated, that such Boundary, viz: "the height of land which divides the rivers that empty themselves into the St. Lawrence, from those which fall into the Atlantic Ocean," would curtail the *ancient* limits of this Government, and interfere with the "*seigneuries* under Canadian grants, as far back as the years 1623 and 1683." (r) It will also be given in proof, that one of those grants is divided by the acknowledged southern boundary of the British province of Canada.

How far these French Grants generally may have been respected, is best known to Great Britain. But the last French possessor having had the sagacity to dispose of his Madawaska Fief, in favor of the first British Governor of Canada, is probably the cause, why this solitary grant has escaped the general wreck of French concessions in that quarter.

(r) Written Evidence, No. 59, and British Evidence, No. 32. The Madawaska Fief was granted in 1683; but the Committee alludes to other grants as early as the year 1623.

Fief of Madawaska

It is equally notorious, and not to be denied, that not the slightest respect was paid by Great Britain to the claim of France, over that country. The principles adopted in that respect are clearly expressed in the Letters Patent of James I., dated 3d November, 1620, to the Council at Plymouth, (commonly known by the name of the New England Patent,) and in the Charter of the *Colony of Massachusetts' Bay*, granted on the 18th March, 1628, by Charles I. (s)

The Grant in the New England Patent, is for "all that part of America, lying and being in breadth from forty degrees of northerly latitude, from the equinoctial line to the forty-eighth degree of the said northerly latitude, inclusively, and in length of and within all the breadth aforesaid, throughout all the main lands from sea to sea."

And the exception, as to the claims of other nations, is as follows, viz: "Provided always, that the said lands, islands, or any the premises by the said Letters Patent intended or meant to be granted, *were not then actually possessed or inhabited by any other Christian Prince or State.*"

The same exception, and in reference to the same year, was inserted in the Charter of the Colony of Massachusetts, dated 1628, in the following words, viz:

"Provided always, that if the said lands intended and meant to be granted, were, *at the time of granting of the said former letters patent, dated the third day of November, in the 18th year of the reign of his late Majesty King James I., actually possessed or inhabited by any other Christian Prince or State* that then the said grant of our said royal grandfather should not extend to any such parts or parcels thereof so formerly inhabited."

The boundaries of the grants to Sir William Alexander, in 1621, and to the Duke of York, in 1667, and of the Charter of Massachusetts' Bay, in 1691, extend to the Gulf and River St. Lawrence, and to the main sea northward and eastward. In Mitchell's Map, published in 1755, with the countenance of the Board of Trade, Nova Scotia and New England are both distinctly designated, and made to extend to the River St. Lawrence. Under the last designation are included the Old Province of Maine, according to its ancient boundaries, and the Province of Sagadahock, (Duke of York's Grant,) lying between Nova Scotia and Maine, and bounded on the North by the said River St. Lawrence.

It is therefore evident, that at no time were any territories excepted by Great Britain from the grants issued under her authority, but such as had been actually occupied and inhabited by some other European Power, prior to the year 1620, or such as might be recognised by treaty stipulations to belong to another nation; and that the chartered boundaries of Massachusetts' Bay, at the time of the cession of Canada to Great Britain, extended, without any reservation, to the banks of the River St. Lawrence.

The soundness of those principles, and the justice of the British claim to that extent, though they would be contested in a discussion where France was a party, cannot be called in question between the United States and Great Britain.

Admitting the claim of France to that part of the country to have been founded in justice, and the Fief of Madawaska to have been a possession unquestionably Canadian, from the date of the Grant to the final cession of Canada to Great Britain, the question whether that concession, and the presumed right of France to the territory on the River St. John, affected the chartered boundaries of Massachusetts' Bay, is altogether irrelevant to the point at issue between the two Powers.

After the cession of Canada by France, Great Britain had the undoubted right, in erecting new Governments out of that Province, to alter its boundaries, and to annex to her ancient colonies such parts as she might think proper, of the former acknowledged dominions of France. That this did actually take place, is proved by the order

(s) Both quoted in the Charter of the *Province of Massachusetts' Bay*, of the year 1691. Written Evidence, No. 13.

in Council, of August, 1768, in which, after having confirmed the line of division along the 45th degree of North latitude, between the Provinces of New York and Quebec, it is provided "that nothing herein before contained shall extend to affect the properties of His Majesty's new subjects, having possession under proper titles, on those parts of the lands on the South side of this line *the dominion of which was not disputed* on the part of the Crown of Great Britain;" and provision is also made in favor of those new subjects who had obtained concessions and made actual settlements on lands disputed by the Crown. (ss)

It is therefore demonstrated, that the fact of a grant of land of Canadian origin being found in any place whatever, (South of the 45th degree of North latitude, or on the River St. John,) does not prove that it ever lay, or lies, within the boundaries of the Province of Quebec, (now Lower Canada,) as prescribed by Great Britain after the cession of Canada by France.

The British argument, then, rests exclusively on the assertion, that this grant of land has, ever since the Proclamation of 1763, constantly been subject to the jurisdiction, and been uninterruptedly held, of the *British* government of Lower Canada or Quebec.

The fief of Madawaska was held of the French government by a feudal tenure; and it appears, accordingly, that whilst France held possession of Canada, and as late as the year 1766, the various acts pertaining to that tenure, such as acts of fealty and homage, statement of the contents and description of the land, (*Aveu et Dénombrement*) and payment of the fine of alienation on mutation of property, were duly performed by the French Grantees, who resided in Canada on the waters of the River St. Lawrence. (t)

Not a single act of that nature, without excepting the payment of the reserved fine on each alienation of the property, appears to have been performed in relation to the government of Canada, by any of the British purchasers of the grant, from the cession of that Province to Great Britain, to the present time.

Mr. Bouchette states expressly, that "By the ancient custom of Canada, lands were held immediately from the King, en fief, or en roture, on condition of rendering fealty and homage on accession to the seignorial property; and in the event of a transfer thereof, by sale or otherwise, except in hereditary succession, it was subject to the payment of a quint, or the fifth part of the whole purchase money, and which, if paid by the purchaser immediately, entitled him to the rabat, or a reduction of two-thirds of the quint. *This custom still prevails.*" (u) And he also mentions the fact, that the *Dames Religieuses* of the General Hospital of Quebec did perform fealty and homage in the year 1791, for a fief situated on the River St. Lawrence, within the boundaries of the British Province of Canada. (v)

As the tenure remains unchanged, the omission of performing the duties attached to it affords a conclusive proof, that the fief has not, since the cession to Great Britain, been considered as being held from Canada. It is not included in the list of the fiefs conceded by the French Government, and still considered as being within the boundaries of the British Province, which is annexed to the Surveyor General's Topographical Description. (w) Nor has any evidence been adduced of a single act of jurisdiction, by the Government of the Province of Quebec, (or Lower Canada,) over that fief, or having any reference to it. No other evidence has been produced, of a date subsequent to the year 1762, in any way relating to that concession, than the various leases and deeds of sale of the property.

Those mutations of property between British subjects afford in themselves no evidence whatever of jurisdiction. The only semblance of proof arises from those in-

(ss) Written Evidence, No. 26. Appendix, page 213.

(t) Written Evidence, No. 58, and British Evidence, Nos. 15 to 19.

(u) Bouchette, page 11. Written Evidence, No. 43.

(v) Bouchette, page 396, and Appendix, page 12. Written Evidence, No. 43.

(w) Bouchette, Appendix. Written Evidence, No. 43.

Fief of Madawaska
14

struments having been recorded in the Province of Quebec or Canada; viz: four leases, dated respectively in the years 1768, —74, —82, —86, in what is called the Register's Office of Quebec, and the deeds of sale, bearing date, July 1763 (prior to the King's Proclamation of October, 1763,) and June and August, 1802, (subsequent to the treaty of 1783,) in the offices of public notaries of the same city.

It was quite natural, that the lessees and grantees, all of them inhabitants of Canada, should, in order to preserve the evidence of their title deeds, have had them recorded by those inferior officers, neither of whom was competent judge of what were the limits of the Province. But there was a sufficient reason why those several instruments should have been thus recorded. Every one, whether lease or deed of sale, included not only the fief of Madawaska, but also, other much more valuable lands, situate within the acknowledged boundaries of the British Province of Quebec.

The deed of July, 1763, from the last French owner to General Murray, includes, 1st, the fief of Madawaska, on the river of the same name, situate near the River St. John, together with the Lake Temiscouata *adjacent thereto, (y joignant,)* containing three leagues in front, on each side of the river of the same name, by two leagues in depth, not being able to declare positively the extent of the Lake Temiscouata: 2dly, the seigneurie of the River du Loup, situate on the South side of the River St. Lawrence, containing seven leagues and half, or thereabout, in front, on an average depth of more than two leagues. (*x*)

The deed of August, 1802, from H. Caldwell to A. Fraser, the present claimant, as well as the three leases to Malcolm Fraser, are for the same property, and six thousand acres in addition, situate on the waters of the River St. Lawrence, behind the seigneurie of River du Loup, which had been granted in 1766 to Richard Murray by the British government of Quebec. The whole is sold to Fraser for £1766 sterling.

The lease of 1774, and the deed of sale from the executors of General Murray to H. Caldwell, dated June 1802, embrace, in addition to the above mentioned properties, the seigneurie of Lauzon on River Chaudiere, that of Foucault on Lake Champlain, the fief of St. Foi at Sillery, the mansion-house and lands of St. Bruit, a house in the city of Quebec, &c.; the whole being sold for £10,000 sterling. (*y*)

It is also stated, in the document No. 21, British Evidence, that the deposition of George Allsopp, (dated 7th September, 1804,) the Register by whom was recorded the lease of the year 1774, from General Murray to H. Caldwell, is "taken at the request of Henry Caldwell, Esq., to be used in the causes to be heard and tried before the honorable the Circuit Court of the United States next to be holden at Rutland, within and for the District of Vermont, on the 3d day of October next ensuing, in which causes Henry Caldwell, Esq. is Plaintiff." And we find the explanation of this apparent anomaly in Bouchette's Topographical Description, (*z*) where, speaking of the seigneurie of Foucault, he informs us that "The line of boundary between Lower Canada and the United States (the 45th parallel of North latitude) runs through this signiory, whereby great part of it is placed within the State of Vermont."

Thus we have it in proof, 1st, that in prescribing the Southern boundary of the British Province of Quebec, (now Lower Canada,) no regard was paid to the situation of the ancient French grants, and whether they fell on one side or the other of the line—2dly, that French concessions, known to be *without* the acknowledged boundaries of that province, were nevertheless admitted to be recorded by the officers holding their offices at Quebec.

(*x*) Written Evidence, No. 58, and British Evidence, No. 20. For the extent of the fief of Madawaska, see Note (A) at the end of this Statement.

(*y*) Written Evidence, No. 58, and British Evidence, 21 to 25.

(*z*) Bouchette, page 188. Written Evidence, No. 43.

Even had this not been the case, it would have been preposterous to say, that acts of an inferior officer of the city of Quebec could have been known to the framers of the treaty of 1783, have had any influence on their proceedings, or can in any degree affect the boundary established, either by the public acts of Great Britain, or by the treaty of 1783.

Yet, it is on the fact alone of the leases and deeds of sale having been recorded at Quebec, in the manner and under the circumstances which have now been explained; on no other evidence whatever, and in the face of contradictory evidence; that the structure has been erected, in the British Statement, of an extensive Possession, incontestably Canadian, held by virtue of rights derived to Great Britain, far within the pretended boundary of the Province of Massachusetts' Bay, which has always formed an integral portion of Canada, and which, preserving its individuality under the original grant, has constantly been subject to the jurisdiction of Canada.

Without pretending to understand precisely the meaning of some of the concluding remarks of the Statement, on that branch of the subject, it may be observed, that after having assumed that the Fief of Madawaska was within the Boundaries of the British Province of Canada, it is inferred, that "assuming this to be the case, it is manifest that the American line must, at the point towards the source of the Madawaska, experience an absolute chasm; a complete interception, by the interposition of Canada."

"But how (it is added) would such a line fulfil the conditions of the treaty? It would certainly, in that case, neither run along highlands, *nor would it divide rivers falling into the St. Lawrence from rivers falling into the Atlantic*; since the upper part of the Madawaska would undoubtedly be on the same line with all the rivers which fall into the St. Lawrence."

No better reason can certainly be assigned, than this last quotation, to shew that the Fief of Madawaska cannot, in conformity either with the treaty of 1783, or the proclamation of 1763, be within the Boundaries of Canada.

If those remarks were intended, (though still excluding the River St. John,) as the view taken by the British Government, of the conditions which necessarily attach to the Boundary line, in order to fulfil the conditions of the treaty; it is tantamount to an abandonment of the case, since the line claimed by Great Britain does not certainly, through the greater part of its extent, divide the rivers falling into the River St. Lawrence from any other rivers whatever.

If intended only, as that view of the subject which is taken by the United States, its correctness cannot be impeached on any other ground, than that to which Great Britain is always compelled ultimately to resort; namely, *denying* that it is necessary, in order to fulfil the conditions of the treaty, *that the line should, from the North-west angle of Nova Scotia to the head of the Connecticut River, divide rivers falling into the St. Lawrence from Rivers falling into the Atlantic*.

The other alleged acts of jurisdiction by the Government of Canada, over the contested territory, are, with a single exception, of a date posterior to the treaty of 1783, and will be examined in the section of this Statement, where a general view will be taken of the acts of both parties, in relation to that territory, since the year 1783.

The only act of a prior date, which has been adduced in evidence, consists of a notice from the Secretary's Office, dated 19th January, 1765, and inserted in the Quebec Gazette of the 24th of the same month.

This was founded on the petition of an Indian tribe, called *Maricittes*, complaining that the inhabitants of Canada hunted beaver, on lands belonging to them, which extended from the Great Falls of the River St. John to Temiscouata, a space of about twenty leagues, including the River du Loup, (a) and that of Madawaska, which emp-

(a) This is a distinct river from that of the same name which falls into the River St. Lawrence.

Indian Grounds. ty themselves into the River St. John; where the French had at all times been forbidden to hunt beaver, that privilege (*cette chasse*) having always been reserved to the said Indians. And the notice is accordingly given that the privilege prayed for by the said Indians, (to wit: the renewal of the order forbidding the inhabitants of Canada to hunt on their grounds,) would be allowed and confirmed to them, unless just cause could be shewn to the contrary. (b)

When the question was to quiet Indians in the vicinity of his Province, a British Governor might have been justified in not strictly attending to Boundaries running across a country yet in their possession. But, in this instance, the Governor of Quebec did not overstep the limits of his legitimate authority. The order, if it ever was issued, applied only to the white inhabitants of Canada, residing within the acknowledged Boundaries of his Province; and he had a right to forbid *their* hunting on Indian grounds, though situate beyond those Boundaries.

To argue from such an order, that the River St. John was within the limits of Canada, would be just as rational, as to insist that China is part of the dominions of Great Britain, because she forbids her subjects generally to trade to that country.

It may be further observed, that the protection of the Indians was one of the special objects of the Proclamation of 1763. Amongst other provisions to that effect, it is "provided, that every person who may incline to trade with the said Indians, do take out a license for carrying on such trade, from the Governor or Commander in Chief of any of our colonies respectively, *where such person shall reside.*" Whence it clearly appears that the powers given to the Governors, in relation to Indian affairs, were to be exercised, with respect to white inhabitants, in reference to *their* place of residence, and not to that of the Indians.

§ 5.

Objections relative to the Gulf of St. Lawrence.

Gulf of St. Lawrence.

The arguments by which it has been shewn, that the framers of the treaty of 1783, had no intention to assign to each Power the whole of the rivers which have their mouth within their dominions respectively; and that the term "rivers which fall into the Atlantic Ocean," considered alone, embraces those which fall into the inlets of that Ocean, apply with equal force, to the Gulf of St. Lawrence and to the Bay of Fundy.

The facts, that the River Ristigouche empties itself into the Gulf of St. Lawrence through the Bay des Chaleurs, and that its mouth lies far East of the meridian of the source of the River St. Croix, are evidently irrelevant to any question at issue.

The mention, in another article of the treaty, of the Gulf of St. Lawrence by its specific name, affords another proof, that that inlet is always held to be a part of the Atlantic Ocean.

The provision alluded to is in the following words: "that the people of the United States shall continue to enjoy unmolested the right to take fish of every kind, on the Grand Bank, and on all the other Banks of Newfoundland; also in the Gulf of St. Lawrence, and at all other places in the Sea, where the inhabitants of both countries used at any time heretofore to fish."

The Gulf of St. Lawrence is, in that clause, assimilated to the Banks of Newfoundland; both being declared to be places in the Sea; and what Sea was meant cannot be doubted, unless it should be denied that the Banks of Newfoundland are in the Atlantic Ocean.

(b) Written Evidence, No. 59, and British Evidence, No. 28.

Numerous instances have already been adduced in this Statement, taken from public acts and other documents, and shewing that, both in its general sense and usual acceptation, the term "Atlantic Ocean," is always so understood. Gulf of St. Lawrence.

Amongst other proofs, we refer more particularly to those drawn from the grant of Nova Scotia to Sir William Alexander, from the commissions of the Governors of Nova Scotia, New Brunswick, the Province of Quebec and Canada, and from the provision respecting captures in the treaty between Great Britain and France of 1783. And we will now, in order to remove any possible doubt on the subject, examine more closely an instance which had only been adverted to, and where the meaning and effect of the expressions used were considered with deliberate attention.

In the first project of a treaty, which was presented by the American Plenipotentiaries, in the course of the negotiation at Ghent, a provision was, as usual, inserted for the limitation of captures subsequent to the signing of the treaty. The clause, which appears to have been borrowed from that which had been agreed to, between Great Britain and France, in 1783, was in the following words, viz: "that the vessels and effects which may be taken in the Channel, and in the North Seas, after the space of ——— from *that of the signature* hereof, shall be restored on each side; that the term shall be ——— from the Channel and the North Seas to the Canary Islands inclusively, *whether in the Ocean or the Mediterranean*: of ——— from the said Canary Islands to the equinoctial line or equator, and of ——— in all other parts of the world, without exception." This provision was at first agreed to by the British Plenipotentiaries, with a verbal amendment as to the Mediterranean, and substituting the words "from the period of the exchange of the ratifications" to "that of the signature" of the treaty.

It having been, at the same time, proposed by the British Plenipotentiaries, that the ratifications should be exchanged at Washington, it was perceived that the limitation of captures ought to be shorter on the American than on the European coasts.

And accordingly they proposed, at a subsequent conference, the following substitute: (e)

"That all vessels and effects which may be taken, after the space of twelve days from the period of the exchange of the said ratifications, upon all parts of the coast of North America, from the latitude of 23 degrees north to the latitude of 47 degrees north, and as far eastward in the Atlantic Ocean as the 65th degree of west longitude, from the meridian of Greenwich, shall be restored on each side. ——— That the term shall be thirty days in all other parts of the Atlantic Ocean, as far eastward as the entrance of the British Channel, and southward as far as the equinoctial line or equator; and the same time for the Gulf of Mexico and all parts of the West Indies. ——— Forty days for the British Channel and the North Seas; the same time for all parts of the Mediterranean. ——— And one hundred and fifty days for all other parts of the world, without exception."

The words used in reference to the period of twelve days, viz: "upon all parts of the coasts of North America," embrace, of course, all the adjacent Bays and Gulfs as far north as the latitude of 47 degrees. But it will be seen, by referring to any map, (d) that that parallel of latitude touches the northern extremities of the Islands of Cape Breton and St. John, leaving, south of it, a very small portion only of the Gulf of St. Lawrence. Almost the whole of that gulf, (including the entrance of the river of the same name, the Straits of Bellisle, and those which lie between Cape Ray, of Newfoundland, and the North Cape of Cape Breton,) lies north of that latitude, and is not, therefore, included within the provision limiting the captures to twelve days.

(e) See project of Treaty and Protocol of the Conference of 1st Dec. 1814. — Written Evidence, No. 46

(d) See Map A and printed Maps.

The Gulf is not included in the forty days' provision, which applies only to the British Channel, the North Seas and the Mediterranean. And it must, therefore, have been necessarily comprehended in the term of thirty days, which extends to *all other parts of the Atlantic Ocean* as far east as the British Channel, and south as the Equator; unless it should be supposed to have been included in the term of "150 days for all other parts of the world without exception;" and this supposition is untenable.

The Gulf of St. Lawrence, particularly the Straits above mentioned and the entrance of the River St. Lawrence, are the highway, and form the only outlets for the whole trade between Great Britain and Quebec; a trade which was, at that time, carried on exclusively in British vessels. To have, therefore, included that gulf within the term of 150 days, would have been tantamount to a permission to the American armed vessels and privateers, coming from ports within fourteen days sail of the entrance of the gulf, to intercept and capture, without any difficulty and with impunity, the whole of that trade, during the space of more than four months. This is too absurd to have been intended by the British Plenipotentiaries; and what proves, beyond doubt, that such was not their intention, is, that the period for allowing captures in the gulf was ultimately made *not longer* but *shorter than thirty days*: which was effected, by extending the period of twelve days "upon all parts of the coast of North America," as far north as the latitude of 50 degrees.(e)

It must also be observed, that the British Plenipotentiaries, in making that proposal (of the 1st December, 1814), had duly attended to the propriety of specifying, by their distinct names, those outlets or seas respecting which there might be some doubt; and which, from long and common usage, might be considered as not included within the term "Atlantic Ocean." Amongst others, "the Gulf of Mexico and all parts of the West Indies" were distinctly specified, as coming within the term of thirty days; and the Gulf of St. Lawrence was not named, it being perfectly well understood, that it was of course included in the term "all other parts of the Atlantic Ocean."

It cannot, therefore, be doubted, that the rivers which fall into the Gulf of St. Lawrence, are clearly embraced by the term, "Rivers that fall into the Atlantic Ocean;" that the North-west Angle of Nova Scotia and the boundary line, extending thence westwardly, designated in the treaty as being "on and along the Highlands which divide the rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean," may, in strict conformity with that provision, be equally placed on and along highlands dividing the tributary streams of the River St. Lawrence, either from those of the River Ristigouche, or from those of the River St. John; and that, whether it shall be on the one or on the other, depends on the place where the due north line from the source of the River St. Croix meets the Highlands in which the tributary streams of the River St. Lawrence have their source; since such Highlands alone can divide the rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean.

There is but one circumstance which, though not adverted to in the British Statement, may give rise to an objection, and makes a difference in the arguments, derived from the intentions of the parties, as applied to the Ristigouche and to the St. John.

It is known by the last surveys, as exhibited in the map A, that the due north line does not reach the Highlands, in which the tributary streams of the River St. Lawrence have their source, until after having crossed several branches of the Ristigouche. The termination of that line, or North-west Angle of Nova Scotia has, therefore, in strict conformity with the express terms of the treaty, been found to be on the highlands which divide those branches from the rivers that empty themselves into the River St. Lawrence.

(e) Treaty of Ghent. Art. 2d.—Written Evidence, No. 1.

The position of that point was distinctly determined by the terms of the treaty: ^{Gulf of St. Lawrence} but it was impossible that the precise spot of ground where that angle would be found, could be ascertained before the due north line had been actually surveyed. And it appears that, misled by an error in Mitchell's Map, the framers of the treaty of 1783 may well have believed, that the due north line would not cross any branch of any of the rivers that fall into the Gulf of St. Lawrence, and that the North-west Angle of Nova Scotia would be found on the Highlands which divide the tributary streams of the River St. Lawrence from those of the St. John.

The most favorable inference to the British claim, that can be drawn from the erroneous opinion of the negotiators on that point, is founded on the double supposition, 1st. That they did not perceive, that the definition of highlands, which they adopted in the treaty, would embrace, should they happen to be mistaken in their opinion, the case which has actually taken place; 2dly. That they did intend to allot, at all events, the whole of the rivers falling into the Gulf of St. Lawrence to Great Britain, and that, had they known that the due north line would cross the Ristigouche, before it reached the highlands in which the tributary streams of the River St. Lawrence have their sources, they would have fixed the termination of that line, and the North-west angle of Nova Scotia, on the highlands which divide the waters of the Ristigouche from those of the St. John; and would have defined the boundary line, as extending thence, along the highlands which divide the rivers that empty themselves, either into the Gulf or into the River St. Lawrence, from those which fall into the Atlantic Ocean.

It is therefore evident, that a construction of the treaty, conforming with that presumed intention, is the utmost extent of what may possibly be claimed by Great Britain, under color of the erroneous opinion, entertained by the negotiators, respecting the length of the most westerly branches of the Ristigouche.

But the most westerly sources of a river that falls into the Gulf of St. Lawrence, are placed, in Mitchell's Map, only five miles east of the due North line.

Those sources belong in fact to the River Ristigouche which empties into the Bay des Chaleurs, although Mitchell has erroneously laid them down as being those of the River Miramichi which he designates by the name of Ristigouche, and has made the true Ristigouche much too short. But those differences do not affect the question: it being sufficient that the sources are laid down as those of a river which empties itself into the Gulf of St. Lawrence.

It may therefore, with equal or greater probability, be presumed, that the framers of the treaty, though believing that this line would not cross that river, were sufficiently aware, that, since the interior part of the country had not been explored, reliance could not be placed, at least within five or ten miles, on the positions assigned by Mitchell to water courses and other places in the interior. And on that supposition, it being deemed necessary to provide for the contingency of an intersection by the north line of the river aforesaid, the terms used in the treaty would be adopted, with a perfect apprehension of their effect on the contingency, if it should take place.

It may also be observed, that the negotiators could not have attached much importance to the fact, whether the due North line would intersect, or pass west of the rivers which fall into the Gulf of St. Lawrence; since that circumstance could not affect the extent of territory falling to the share of the two powers respectively.

All those suppositions, on either side, rest on mere conjectures. It is probable that the framers of the treaty entertained the erroneous belief, that the due North line would not cross the River Ristigouche. All that is well ascertained is, that, contrary to that probable expectation, the North-West angle of Nova Scotia has been found on the highlands which divide the rivers that empty themselves into the River St. Lawrence, from those that fall into the Gulf of St. Lawrence, instead of those that fall into the Ri-

Gulf of St. Lawrence.

ver St. John; and that, whether on the one, or on the other of those two highlands, the place, where thus found, is clearly embraced by the express terms of the treaty.

Under those circumstances it would be contrary to justice and to every principle of sound interpretation, to substitute, to the express terms of a treaty, presumed intentions, not proved, but only inferred from an erroneous opinion of the negotiators, on which they may or may not have acted, and on which, from the terms used in the treaty, it must be presumed they did not act. It is sufficient that the highland, which divides the waters of the St. John from those of the Ristigouche, *is not*, and that the Highland, which divides the waters of the Ristigouche from those of the River St. Lawrence, *is* a Highland that divides an Atlantic River from one that empties itself into the River St. Lawrence. (f)

“The first general maxim of interpretation is, that it is not permitted to interpret what has no need of interpretation.”

“Those who dispute the sense of a clear and determinate article, are accustomed to draw their vain subterfuges from the pretended intention and views of the author of that article. . . . This is a rule more proper to repel them, and which cuts off all chicanery. *If he, who can and ought to have explained himself clearly and plainly, has not done it, it is worse for him: he cannot be allowed to introduce subsequent restrictions, which he has not expressed.*”

“There can be no secure conventions, no firm and solid concession, if these may be rendered vain by subsequent limitations that ought to have been mentioned in the piece, if they were included in the intentions of the Contracting Powers.” (g)

The correct principles, thus laid down by one of the most eminent writers on the Law of Nations, may perhaps find their application in other parts of the argument. In the question particularly now under consideration, it is sufficient to observe that, if it had been intended by the treaty, that the due North line should not cross the Ristigouche, and that the North-West angle of Nova Scotia should not be placed on the Highlands which divide the branches of that river from the tributary streams of the River St. Lawrence, this could and ought to have been explained clearly and plainly in the treaty itself; and that Great Britain having not done it, she cannot be allowed, according to the principle laid down by Vattel, to introduce any restrictions or limitations, that ought to have been mentioned in the treaty, if they were included in the intentions of the Contracting Powers.

If there was even complete proof, that it had been the intention of the framers of the Treaty that the whole of the waters of the Gulf of St. Lawrence should fall within the dominions of Great Britain; another important consideration forbids any claim, on the part of Great Britain, to appeal from the terms of the treaty to those intentions.

The most easterly river, which falls into the Bay of Passamaquoddy, is that which, in Mitchell's Map, is designated by the name of St. Croix. The true Indian name “Magaguadavic” is given to it in Map A. The westerly river called “Schoodie” is, in Mitchell's Map, designated by the name of Passamaquoddy River.

The Commissioners appointed in pursuance of the 4th article of the treaty of 1794, to decide which was the true River St. Croix, had before them the whole of the evidence,

(f) Unless it should be insisted that the rivers that empty themselves into the Gulf of St. Lawrence must be considered as falling into the River St. Lawrence, a supposition which has been disproved in the first American Statement.

(g) Vattel, Book 3d, Ch. 17. § 263, 264

which proves, that it was by Mitchell's Map that the framers of the treaty of 1783 regulated their joint and official proceedings. In addition to the depositions of Mr. Jay and of Mr. Adams, taken at that time, we may quote Mr. Adams' letter to Lieut. Governor Cushing, of 25th October, 1784. Gulf of St. Lawrence.

"We had before us, through the whole negotiation, a variety of maps, but it was Mitchell's Map upon which was marked out the whole of the boundary lines of the United States; and the River St. Croix which we fixed on, was upon that map the nearest river to St. John's; so that in all equity, good conscience and honor, the river next to St. John's should be the boundary." (h)

Notwithstanding that clear evidence; although the easterly river is most distinctly named and designated as the River St. Croix in Mitchell's Map; although it is from the source of that same river that Mitchell has drawn the due north line, forming the Western Boundary of Nova Scotia (or Sir Wm. Alexander's Grant;) although the fact, that that map had regulated the proceedings of the negotiators, was fully acknowledged; and although there was not the least doubt about their intentions; yet the decision was, that, according to the treaty, the Schoodie or Westerly River was the true St. Croix.

This decision was made too by an American citizen, who was selected as Umpire by the other Commissioners, and who conscientiously decided against the United States, because the River St. Croix, being no otherwise designated in the treaty than by its name, or, as having its mouth in the Bay of Fundy, he had no other duty to perform but to ascertain, without regard to the intentions of the parties, which was the *true* River St. Croix. (i)

It was conclusively proved, that the Island, from which the river must have derived its name, and to which the first discoverer (De Monts) had given that of St. Croix, (k) was one situated within and some distance up the Schoodie. And the Umpire argued that, as Mitchell must, by his River St. Croix, have intended that in which the Island of St. Croix should be found to be situated, his mistake must be corrected, and could not affect the question.

By that decision the United States have, contrary to the well ascertained intentions of the framers of the treaty, been deprived of the whole territory, contained between the Rivers Magaguadavie and Schoodie, and between the two lines drawn due North to the Highlands from the sources of those two rivers respectively, (l) containing about three thousand and eight hundred square miles. And the effect of the decision has further been, to deprive them of the Island of Grand Menan, and of those in the Bay of Passamaquoddy, all of which lie west of a line drawn from Cape Sable to the mouth of the River Magaguadavie, and therefore had never been within the limits of the Province of Nova Scotia.

Independent of the loss of territory, the boundary thus fixed is, and has proved to be, attended with as much if not more inconvenience and danger, either in time of peace or of war, to the United States, than can possibly arise to Great Britain from any part of that now in question. To that definitive decision, no objection was or could be made: nor did it even excite any complaint against the respectable citizen, who, in making it, performed a painful but sacred duty. It is now adverted to, only in order

(h) Written Evidence, No. 22, page 206.

(i) Written Evidence, No. 36.

(k) Yet the name of St. Croix was for the first time given to the *River*, in Sir William Alexander's Grant, of the year 1621. Lescarbot, published in 1618, gives it no name; and Champlain, in the original edition of 1613, gives it no other than that of *Riviere des Etchemins*. Written Evidence, No. 36, pages 277 and 278.

(l) The lines O A and S T in the American Transcript of Map A.

Conf. of St. Lawrence.

to point out, how unjust it would be, to apply, on this, a different rule from that which was adopted on a former occasion; and, after having decided, at one time, in conformity with what was deemed the true meaning of the terms of the treaty, and in direct opposition to Mitchell's Map, and to the clear and acknowledged intentions of the negotiators, to substitute, in this case, to express terms of the treaty, which admit of no doubt, a construction founded on a more than doubtful intention, inferred only from an error in that Map.

The question would have been different, had the error induced the negotiators to define the boundary in such terms as would have rendered it impossible to execute the treaty according to its tenor.

This is not a hypothetical case. The framers of the treaty, misled by another and more fatal error in Mitchell's Map, defined the boundary from the most North-western point of the Lake of the Woods, as being "on a due West course to the River Mississippi." It was afterwards ascertained, that such line would pass North of the most Northern sources of that River, and that its length, as designated by the treaty, was therefore indefinite.

In that case, as the treaty could not be executed, it became necessary to provide by a new negotiation for an amicable settlement of the question. No such difficulty occurs in the case now under consideration, because, notwithstanding the error in Mitchell's Map, and whatever may have been the belief of the negotiators, the terms of the Treaty cover the contingency which has taken place, and can be executed according to their tenor.

§ 6.

Objections derived from the signification of the term "Highlands"

Highlands

It is contended, on the part of the United States, that the word "Highlands" is, in its general sense, an indeterminate and relative term; that the property of dividing the rivers designated by the Treaty, is that which affixes to that expression a definite and precise meaning; and that, independent of any other consideration, it was for that reason judiciously selected, in reference to an unexplored country, as applicable to any ground along which the line dividing those rivers should be found to pass. The position of the highlands being clearly ascertained by the indispensable condition, that they must divide certain specified rivers, any objection derived from a presumed meaning of the word "Highlands" refutes itself, if its object be to divest them of that essential character.

The most common error in relation to that subject is that of supposing, that "highlands which divide rivers" must necessarily be mountains.

Because the Alps divide the rivers of Italy from those of Germany and France; because these are divided from those of Spain by the Pyrennees; because, in America, the Allegheny Mountains, for an extent of several hundred miles, divide the sources of the rivers which fall into the Gulf of Mexico, from those of the rivers which empty themselves into the main Atlantic Ocean; it seems to have been concluded by many, (n) whose opinion was founded only on an erroneous analogy, that the highlands

(n) Amongst others, the Agent of the United States under the 5th article of the treaty of 1794, (Mr. Sullivan,) as quoted by the British Agent in the course of the proceedings under the late commission. Mr. S., though a man of extensive learning, was not probably acquainted with the technical meaning of the terms "highlands" and "height of land;" and he does not appear to have investigated any other branch of the subject than that on which he was appointed to argue, namely: which was the true St. Croix? Yet, although he seems to have confounded "highlands" with "mountains," and to have

which divide the rivers, that, in the territory in question, flow in opposite directions, must also be a continuous chain of conspicuous mountains, soaring above all the adjacent country. But nature is not so uniform in her works, as the tendency of the human mind to generalize would make her; facts will upset systems formed before they had been ascertained: and the ridges which divide the sources of the River St. John, from the tributary streams of either the River St. Lawrence or the Penobscot, as those which separate the Borysthènes and the Volga from the Dwina and the Neva, though they may not have the character of conspicuous mountains, are not the less embraced by the general expression of "highlands" which divide those rivers respectively.

It appears to have been now ascertained, that there is not, East of the sources of the Chaudière, any continuous and conspicuous chain of mountains. The ridges run in various directions; their course being generally parallel to that of the rivers, instead of dividing them from each other at their sources. And a new definition of the term "Highlands" is now suggested, as being apparently better adapted to the ground over which the British line must pass.

It is asserted, on the part of Great Britain, that that term implies *high*, i. e. *elevated*, lands; or, in other words, a generally elevated and mountainous tract of country; it not being necessary, however, that those highlands should present an absolutely unbroken and continuous ridge, without the intervention of valley or swamp.

This definition is so vague, that if adopted it would only open a new field for discussion, there being no precise criterion by which to judge whether the line claimed by either party has the general elevation required, and passes along, or near, a sufficient number of mountains, and through no more than its due proportion of valleys and swamps.

It will accordingly be found, that, whilst the notion of a continuous and conspicuous chain is abandoned, so far as relates to the line claimed on the part of Great Britain, she continues to require, that there should not be found in the dividing highlands claimed by the United States, any of those depressions, valleys and swamps, which are admitted by the meaning she attaches to the term "Highlands."

If it is intended to divest this presumed mountainous country of the character of dividing the rivers prescribed by the treaty, the pretended definition is not merely an explanation of the term, but a substitution of the words, "a generally mountainous country," to the express terms of the treaty, "the Highlands which divide the rivers," &c.

If it is intended to preserve the conditions prescribed by the treaty, the supposition that the boundary line must be along the mountainous country which divides the rivers, &c. would be of no avail to Great Britain, since her line does not divide the rivers designated by the treaty. And this double condition implies contradiction, since, in their total ignorance of the nature of the intervening country, it was impossible for the negotiators to divine, whether a line, dividing the rivers specified by the treaty, would also be found to extend along a *generally mountainous country*.

Although the British definition is totally inapplicable to a boundary line, an extensive district of country generally mountainous may, not in reference to such a line, but as contradistinguished from another tract of country, be designated with propriety

been embarrassed by the information, (correct or erroneous,) that the highlands designated by the treaty were not a chain of conspicuous mountains, that circumstance did not prevent his forming a correct opinion on the main question, and clearly seeing that the boundary line must, according to the express terms of the treaty, be along the ground which divides the rivers therein specified, without regard to its nature or character. And the boundary is laid down accordingly, in the map annexed to his History of the District of Maine. (Topogr. Evidence, No. 36.)

Highlands.

by the name of highlands. Thus the Northern part of Scotland has received that appellation, in order to distinguish it from the Southern part, known by the name of Lowlands. (n) Those Highlands comprehend an extensive country, rugged and mountainous, intersected by rivers and valleys, and without any conspicuous ridge dividing the rivers that flow in opposite directions.

If Great Britain, for any purpose whatever, thought it proper to divide that Northern part of Scotland into two districts; and the line, intended to divide those districts, was described only as running generally along the Highlands, it would be altogether indefinite and unintelligible. But if the line was defined as being, from the Northern sources of Loch Fine, along the Highlands which divide the rivers that empty themselves into the German Sea, from those which fall into the main Atlantic Ocean, to Duncansby Head; there is no Engineer, or Surveyor, appointed to survey the same, who would hesitate, without regard to the position of the most conspicuous and elevated mountains, to leave, through the whole extent of the line, from Loch Fine to Duncansby Head, the sources of all the rivers that fall into the German Sea, on his right hand, and, on his left, the sources of all those that fall into the main Atlantic Ocean. And in that course he would necessarily cross the summit level, which separates Loch Oich from Loch Eil, the elevation of which is only 94 feet above the level of the Sea: (o) since, by pursuing any other course, he must, contrary to the definition of the line, cross one of the waters to be divided; and without gaining any thing in point of elevation, since whichever of the Lochs or waters he would thus cross, must necessarily be lower than the summit level, which divides one from the other.

In the same manner, the boundary line between the United States and Great Britain would have been altogether indefinite and unintelligible, if described only as running generally along the highlands, or across a mountainous country. And since it is defined, as extending along the highlands which divide the rivers designated in the treaty, it must necessarily, through its whole extent, leave on each hand respectively the sources of the rivers thus directed to be divided: since it could not pursue any other course, otherwise than by crossing one of those rivers, and be there at a place less elevated than the dividing ridge; which for that very reason, and without regard to its absolute elevation, is justly entitled to the relative appellation of "Highlands."

Besides Scotland, there is another instance of the word "Highlands" being used, not as a generic term, but as the special appellation of a particular country or spot.

The chain, known in Virginia by the name of Blue Ridge, extends from the borders of North Carolina to those of the State of Connecticut. It assumes the various names of South Mountain, Flying and Oley Hills in Pennsylvania. "In New Jersey, it is called Miscopecung, and in New York the Highlands." (p) The river Hudson breaks through the mountains at that place: the tide flows through and far above "that extraordinary and very singular passage;" and it is in reference to the much lower banks of the river above and below, that the portion of the chain which borders upon it has received that name. It is here, as in every other instance, used as a relative term, since it is not applied to any other portion of the chain.

But the supposition, in the British Statement, that the name of "height of land," given to that portion of the highlands which divides the waters of the Connecticut and of the Kennebec from those of the St. Lawrence, instead of being a generic term, was a distinctive and special appellation particularly applicable to that portion, is altogether erroneous.

(n) Written Evidence, No. 39.

(o) Supplement to Encyclopædia Britannica—Written Evidence, No. 39.

(p) Pownall, pages 27 and 11—Written Evidence, No. 40.

It is asserted that this height of land had been described in many public documents, as dividing the rivers aforesaid, to the West of the sources of the River St. John and of the Western head of the Penobscot. (q)

The only public documents prior to the year 1783, in which that "height of land" had been described, are the Proclamation of 1763, the Quebec Act of 1774, and the Commissions of the Governors of the Province of Quebec. It was there described, not by that name, but by that of "Highlands;" and this term, which is used in reference to the Southern boundary of Canada, is not applied exclusively, in those public documents, to the small portion alluded to in the British Statement, but to the whole of the *Highlands* which extend from the Connecticut River to the Bay des Chaleurs.

The only colorable authority for the allegation is that of Governor Pownall. He says that the Connecticut River and the River Kennebec rise on the "Height of Land," in North Latitude $45^{\circ} 10'$ and $45^{\circ} 20'$ respectively; that "a range crosses the East boundary line in New Hampshire, in latitude $42\frac{1}{2}^{\circ}$, and trending North-east forms the *Height of Land* between Kennebec and Chaudiere Rivers;" to which he adds, "of the nature and course of this *highland* I am totally uninformed;" and that "all the heads of Kennebec, Penobscot and Passamaquoddy Rivers are in the Height of Land, running East-north-east."

Whence it seems to be inferred, not only that the portion of the dividing highlands in which the rivers Kennebec and Connecticut have their sources, was, prior to the treaty of 1783, emphatically called "the Height of Land;" but that an Eastern continuation of those Highlands, in which continuation, tributary streams of the Kennebec, and the rivers Penobscot and Passamaquoddy (the Schoodie) had their sources, was also known to Governor Pownall, and considered by him as the same height of land.

Governor Pownall had collected many facts, and relates them faithfully: and he carefully distinguishes his knowledge, when derived from surveys or actual explorations communicated to him, or made under his own direction, from the vague and often incorrect information he might have received in relation to other parts of the country, respecting which he previously declares himself to be uninformed.

It will be found by his own account, (r) that his knowledge extended, on the Kennebec, no higher up than the branch now called Dead River, and on the Penobscot than the River Matawamkeg, and that he was also well acquainted with the Passamaquada, or Schoodie River, which he describes with considerable correctness, from the Schoodie Lakes, to its mouth in the Bay of Passamaquoddy.

A nearly straight line drawn, on Map A, from the Schoodie lakes to the source of the Dead River, will shew the northern limit of his actual knowledge in that quarter. That line, through its whole extent, is from 50 to 60 miles south of the British line, and of "the height of the land running east-north-east," in which are to be found all the heads of Penobscot and Kennebec rivers.

Respecting the nature and course of the highland, beyond the source of the Dead River, whether extending North-eastwardly to the Bay des Chaleurs and the Gulf of St. Lawrence, or branching off East-north-east to the source of the Passamaquoddy River, he was, as he says, totally uninformed.

But he knew from all the maps then published, including that of Mitchell, that the River St. John penetrated in the country Westwardly, so as to have some of its sources opposite those of the Chaudiere and within less than 40 miles of the River St. Lawrence. And, although without any correct information respecting the nature of either of the dividing grounds, and with very little concerning their course, he was clearly assured, that two dividing ridges must be found; one extending to the Bay

(q) British Statement, page 31.

r) See Note B at the end of this Statement

Highlands. des Chaleurs, which divided the Northern tributary streams of the River St. John from the rivers that fall into the River St. Lawrence; and another extending to the sources of the Passamaquada River, which divided the Southern tributary streams of the St. John from the sources of the various branches of the Penobscot, and perhaps of the Kennebec.

He describes the first dividing ridge (page 9,) as mountains, which, in the latitude 45 or thereabouts, (that is to say about the source of the Dead River,) "turning Eastwards run away to the Gulf of St. Lawrence:" and again (page 14) in the following words, viz: "Going from the same line, in latitude 45, of the greatest height of this range of mountains, and following them to the East northerly: They all seem to range as united until again divided by the Bay of Chaleurs, an arm of the Gulf of St. Lawrence. All the rivers which have their sources amidst the Northern ridges of this great range, fall into Canada or St. Lawrence River, as the St. Francis, Chaudiere, and many others."

And he describes the other ridge (page 14,) as the "Southern ridges," amidst which those rivers have their sources exclusively, which fall into the Bay of Fundy or into the main ocean; and, (page 24,) as the height of the land, running East-north-east, in which are to be found all the heads of Kennebec, Passamaquoddy and Penobscot rivers.

But Gov. Pownall, though having a general knowledge of the position, of both the above mentioned dividing ridges had none (North-east and East-north-east of the sources of Dead River,) of their nature and character, with the exception only of that place, where the river Passamaquady has its source, which he says (page 20) "is formed by a succession of lakes and swamps."

It is therefore impossible that he should have intended, by the term "height of land" or "highland" to define the nature of the ground; or that he should have used it, as the special or local name of any particular highland or mountain. The term is clearly used by him, as a generic expression, and in reference only to the sources of rivers. It means with him nothing else than the ground which divides rivers flowing in different directions, whatever may be the absolute elevation, or in other respects, the character of such ground. And we will now give abundant proof that such is, in Canadian and New England geography, not only one of the significations, but the sole and exclusive meaning of the term "height of land;" and that the other expression, "highlands," though in its general sense applied also in cases where there is no division of rivers, is, whenever defined by the adjunct *dividing*, always used as synonymous with "height of land."

That the terms "height of land" and "highland" are used as synonymous, is proved beyond doubt, in relation to that very part of the dividing highlands described by the treaty, which is acknowledged by both Powers to be part of their boundary.

Thus Pownall (page 17) says, "a range running hence crosses the East boundary line of New Hampshire in lat. 44½, and trending North-east forms the *height of the land* between Kennebec and Chaudiere rivers: of the nature and course of this *high land* in these parts I am totally uninformed."

Mr. Bouchette, Surveyor Gen. of Lower Canada, in his Topographical Description of that Province, in reference to the same highlands, which he expressly states to be a chain that "*commences upon the Eastern branch of the Connecticut River, takes a North-easterly course, &c. and terminates near Cape Rosier,*" calls them "the ridge generally denominated the *land's-height*, dividing the waters that fall into the St. Lawrence from those taking a direction towards the Atlantic Ocean." (s) In his

(s) Bouchette, page 25—He designates again that chain by the name of "height of land," page 281—Written Evidence, No. 43, pages 303, 304.

large map, (No. 40,) he gives the name of "*height of land*" not only to the same ^{Highlands} acknowledged highlands, but also to those in the vicinity of Lake Temiscouata; whilst, in his topographical description, (page 535,) he says that the River du Loup, which has its source in that identical height of land, rises in the *highlands*.

The Southern boundary of the Province of Quebec, or Lower Canada, is, in every public act of Great Britain which designates it, described as being along the *highlands* which divide, &c. The Committee of the Executive Council of the Province of Quebec, in their report of August 1787, speaking of that boundary, call it "*the height of land*." (t)

Finally, it is expressly acknowledged in the British Statement itself, that the distinctive appellation of the "*height of land*," was given to the *highlands* acknowledged by both parties, viz: those "dividing the waters that fall into the Atlantic Ocean, from those which fall into the River St. Lawrence to the West of the sources of the River St. John, and (of) the western head of the Penobscot." Several other instances will be given of the two terms being used as synonymous, as we proceed to shew the signification of the term "*height of land*."

Governor Pownall says, (page 10,) "The Hudson's River arises from two main sources derived by two branches which meet about ten miles above Albany, the one called the Mohawk's River, (*rising in a flat level tract of country, at the very top or height of the land* to westward,) comes away East and South-east at the foot, on the North sides of the mountains, which the Indians call by a name signifying the endless mountains."

In this instance, the appellation of the "*height of the land*" is given, not to the mountains, the basis of which is washed by the river in its further course East and South-east from its source, but to the very spot in which the Mohawk River takes its source, and which divides it from the sources of rivers flowing into Lake Ontario; and that *height of the land* is expressly stated to be "*a flat level tract of country*."

Again, (page 13,) "Between the Northern part of the Hudson's River, and the Southern parts of the Lakes (u) and drowned land, is the *height of the land* of about 12 or 14 miles breadth, whence the waters run different ways, part to the South, part to the North; *over this Portage* to Lake George is a wagon road.

Across this very *height of land*, which divides the waters of two mighty rivers, the Hudson and the St. Lawrence, the Canal has now been opened, which unites Hudson's River with Lake Champlain, the outlet of which flows into the River St. Lawrence; and that *height of land*, the summit level of the Canal, the *point de partage*, is only 147 feet above the level of tide water, as will be seen by the report of the Commissioners, and by the map in illustration thereof. (v)

It is believed, that a more conclusive proof than is afforded by the two last quotations, cannot be adduced, that the appellation of "*height of land*" is given only in reference to the division of waters, and not in the least to the character and elevation of the ground.

The celebrated British traveller, Sir Alexander McKenzie, the first who, from the River St. Lawrence, penetrated through the Continent of North America, both to the Arctic and to the Pacific Oceans, has prefixed to the account of his voyages, a general history of the fur trade from Canada to the North-west. He describes, with great precision and correctness, the route pursued by their traders, from the junction of the Utawas River with the St. Lawrence, near Montreal, to the waters of the great

(t) Written Evidence, No. 59, and British Evidence, No. 32.

(u) Viz: Lake Champlain and Lake George. The situation of the drowned lands, on the South Bay of Lake Champlain, (where the Canal terminates,) may be seen in the printed maps, Nos. 51, 55 and 56.

(v) See Written Evidence, No. 44, and Topographical Evidence, No. 52.

Highlands- Arctic, or McKenzie's River. And he designates the various dividing grounds traversed on that long voyage, in the following manner: (*w*)

Speaking of the Portage, from the source of the Petite Riviere, a tributary of the Utawas River, to the waters of the French River which empties into Lake Huron, he says, "the last (Portage) in this river (Petite Riviere) is the Turtle Portage, eighty-three paces, on entering the lake of that name, where, indeed, the river may be said to take its source. From the first vase to the great River, the country has the appearance of having been overrun by fire, and consists, in general, of huge rocky hills. The distance of this portage, which is *the height of land* between the waters of the St. Lawrence and the Utawas, is 1513 paces to a small Canal in a plain, that is just sufficient to carry the loaded canoe about one mile to the next vase, which is 725 paces."

Alexander Henry, an earlier traveller, who passed over the same dividing ground in the year 1761, gives it the same appellation. (*x*) "We had now passed the country, of which the streams fall North-eastward into the Outaonais, and entered that from which they flow, in a contrary direction toward Lake Huron. On one side of the *height of land*, which is the reciprocal boundary of these regions, we had left Lake aux Tourtres and the River Matawa; (*y*) and before us, on the other, was Lake Nipissingue."

McKenzie, speaking of Lake Superior, says, "This Lake may be denominated the grand reservoir of the River St. Lawrence, as no considerable rivers discharge themselves into it. . . . Indeed, the extent of country from which any of them flow, or take their course in any direction, cannot admit of it, in consequence of the *ridge of land that separates them* from the rivers that empty themselves into Hudson's Bay, the Gulf of Mexico, and the waters that fall in Lake Michigan."

Henry, navigating along the Northern shore of Lake Superior in the year 1775, says, "In the evening we encamped at the mouth of the Pitijic, a river as large as that of Michipicoten, and which in like manner takes its rise in the *high lands* lying between Lake Superior and Hudson's Bay. From Michipicoten to the Pijitie, the coast of the lake is mountainous: the mountains are covered with pine, and the valleys with spruce fir."

It will be observed, that the dividing ground which separates the rivers that fall into Lake Superior, from those that empty themselves into Hudson's Bay, which McKenzie calls *the ridge of land*, is by Henry designated by the name of *high lands*; and that this last writer, reserving that term for the dividing ground, gives the name of *mountains* to the coast of the lake.

McKenzie, after having described the route from the shores of Lake Superior, about forty miles to the North-west, says, "From hence the course is on the lake of the same name, (*Perche*) West-south-west three miles to the *height of land* where the waters of the Dove or Pigeon River terminate, and which is one of the sources of the great St. Lawrence in this direction. Having carried the canoe and lading over it 679 paces, they embark on the lake of *Hauteur de Terre*, which is in the shape of an horse-shoe. It is entered near the curve, and left at the extremity of the Western limb, through a very narrow channel, where the canoe passes half loaded for 30 paces with the current, which conducts these waters till they discharge themselves through the succeeding lakes and rivers, and disembogues itself, by the River Nelson, into Hudson's Bay."

(*w*) Written Evidence, No. 41.

(*x*) Written Evidence, No. 42.

(*y*) Matawa Sipi, the Indian name of Petite Riviere. (Henry, page 27.) Written Evidence, No.

Henry, speaking of the same dividing ground which he describes as a chain of lakes, says, "The region of the lakes is called the *Hauteur de Terre*, or *land's height*." Highlands

Describing the rivers that empty themselves into Lake Winipie, McKenzie says, "those on the North side are inconsiderable, owing to the comparative vicinity of the *high land* that separates the waters coming this way from those discharging into Hudson's Bay."

Here McKenzie designates the dividing ground by the name of *high land*. Sometimes he calls it a ridge; when he speaks afterwards of the two places which divide the waters of the River Missinipi from those of Lake Winipie, and of McKenzie's River respectively, he uses, as synonymous, the word *portage*, (in English, *carriage*;) (z) which last designation is more particularly applied to the route or path across the height of land, along which the canoes are carried from water to water. But he never uses the term *height of land* itself, except for the purpose of designating the ground which does divide the rivers.

Mr. Bouchette, besides other instances, mentions "another and higher range of mountains that forms the *land's height*, and divides the waters that empty themselves into the St. Lawrence, from those that descend into Hudson's Bay." (a)

And, in another place, (page 36,) he says, "Between it (Lake Michigan) and Lake Huron, there is a peninsula that, at the widest part, is 150 miles, along which, and round the bottom of Michigan, runs part of the chain forming the *land's height* to the Southward: from whence descend many large and numerous inferior streams that discharge into it. On the North side of Lake Huron, many rivers of considerable size run from the *land's height* down to it. One of them, called French River, communicates with Lake Nipissing."

This last land's height is the same mentioned by McKenzie and Henry, as dividing the waters of the Utawas River from those of Lake Huron. That to the Southward of Lake Michigan, is that which divides its waters from those of the Illinois River, a tributary of the Mississippi; and this *land's height* is a swamp, and at one place a pond, which, when swelled by rains, discharges its waters both ways, so as that a canoe may then pass, without being carried across, from Lake Michigan into the Illinois River. (b)

It had already been shewn, that the term "highlands," taken in its general and indeterminate sense, was well adapted to the purpose of designating, in the most general manner, the unexplored ground dividing certain specified rivers, along which the boundary line described in the treaty was intended to pass.

The only objection to which the word thus selected was liable, was not, as has been suggested, that it implied a great absolute elevation, or a mountainous country, but that the term might then have been omitted altogether; inasmuch as the boundary line might have been described, merely as dividing the rivers intended to be divided, without using the word "high lands."

This would indeed have been but a verbal criticism, since the condition of dividing the rivers was sufficient to remove any doubt, as to the meaning of the term "highlands which divide the rivers," &c. But even that objection is now conclusively refuted.

It has now been most clearly shewn that, independent of its general sense, the word "highlands" is, in common, and as synonymous with "*height of land*," a term in general use in Canada, and in New England, (c) for the purpose of designating, without any reference to its elevation or nature, any species of ground which

(z) Portage De Traite and Portage La Loche. McKenzie, pages 93 and 104. Written Evidence, No. 41

(a) Bouchette, page 29. Written Evidence, No. 43.

(b) See Note to Lake Michigan, in printed Map. No. 54

highlands, divides rivers flowing in different directions. And it has been incontestably proved, that the designation of "*height of land*," respecting the use of which for that purpose *exclusively*, there can be no doubt, has been and is perpetually applied to the very *highlands*, which are by both parties acknowledged to be part of those described and intended by the treaty.

The appropriate use of that term, in the treaty, is therefore in every respect indisputable. And it must also be recollected, that it was borrowed from the Proclamation of 1763, and other public acts of Great Britain; that the particular use of the term in that sense is of Canadian origin; and that it was for the first time used, and has been retained in subsequent public British acts, for the express and sole purpose of defining the boundary of Canada.

We will conclude this branch of the subject, by adducing a conclusive proof, that the term "*highlands*," cannot in the treaty, have been intended to imply "*a generally mountainous country*."

A mountainous country is actually delineated in Mitchell's Map, commencing more than forty miles West of the source of Mitchell's River St. Croix, and of the line drawn due North from that source. That mountainous country extends to the sources of the Chaudiere, consisting of several ridges or mountains, running in various directions, and one of them extending about 45 miles along the line now claimed on the part of Great Britain.

On the other hand, there is not, along the due north line, nor within forty miles of it, either to the east or to the west, a trace, on the map, of any ridge, or even of a single hill, from the source of the St. Croix, to the point which divides the northern sources of the St. John from those of the tributary streams of the St. Lawrence.

It is therefore evident, that if, by "*highlands*," the framers of the treaty of 1783 had meant "*a mountainous country*," they would have given to the Boundary line the direction necessary, in order that it should meet what was on Mitchell's Map laid down as such, and must necessarily have defined that line as running from the source of the River St. Croix, or from some point on the due North line, *Westwardly*, towards the country thus delineated on the map as mountainous.

And since, with that map before them, they defined the Boundary line as running due North from the source of the River St. Croix, to the highlands which divide the rivers, &c. although there was no mountain or hill delineated in the map, along or near any part of such due North line, it is equally clear that, by the "*dividing highlands*," where that line was to terminate and form the North-west angle of Nova Scotia, they could only have meant the ground in which the rivers that empty themselves into the River St. Lawrence have their sources, and which accordingly divides those rivers from those that fall into the Atlantic Ocean.

It is manifest, from what precedes, that the United States consider the absolute elevation and mountainous character of the ground through which the lines claimed by each party do respectively pass, as questions of fact unimportant and irrelevant. Yet some of the remarks in the British Statement, connected with that subject, seem to require an answer. Referring, for details and proofs, to the maps and reports of the Surveyors, and to the Note C, at the end of this Statement, we will only state the substance of what is actually known in that respect.

The line, drawn due North from the source of the River St. Croix, has been actually surveyed to the point A of map A; and the British Surveyor, Mr. Bouchette, has also given a vertical section of the line as far North as the Ristigouche. As, according to the claim of the United States, their line along the highlands was traced by nature, it was unnecessary to have it surveyed until the Commissioners had made a decision with respect to the North-west angle of Nova Scotia; and no more than six places on that line were visited by the Surveyors.

(c) The term "*dividing ridge*," is that in general use in all the other parts of the United States; and is used in the same sense, and without regard to the elevation of the *ridge*.

These are, 1. The North-west angle of Nova Scotia, which is on a table land of considerable elevation; 2. The Temiscouata Portage, where the line is found along a mountain 1300 feet above the level of the sea; 3. The heads of the West branch of the River St. John, which has its source in a considerable mountain; 4. and 5. The two Rimousky Portages which lie East of the Temiscouata Portage: in both, the sources of the rivers flowing in opposite directions take their rise very near to each other, in low swampy ground, forming a deep and narrow valley, bound, on each side, by elevated ridges parallel to the course of the streams: those valleys are of course depressions or gaps of the highlands of which those ridges are a part; 6. The River Ouelle's Portage, South of the Temiscouata, of the same character with the two preceding, with this difference, that the adjacent ridges are much lower.

Since it is asserted by Great Britain, that the "highlands" must be elevated and mountainous, it might have been supposed that her Agents would have surveyed and taken a vertical section of the entire line claimed on her part, from Mars' Hill to the North-westernmost source of the Penobscot, where the conflicting lines meet. No portion of it, however, has been surveyed: three places only along it have been visited by the Surveyors; and, notwithstanding the parade of a large folio volume of surveys, there is amongst them, West of the due North line, but one British *survey* which relates to their line, and that in reference to a single point of it, (*d*) unless the name of survey be given to what is called Mr. Campbell's Sketch.

The three points visited are, 1. Mars' Hill, an insulated mount 1500 feet above the level of the sea, unconnected with any other ridge or hill; 2. and 3. The Portage visited by Mr. Loss, situated only five miles East of the point where the conflicting lines meet; and the Umbazucksus or Aliguash Portage, which is about eighty miles West of Mars' Hill. Both these are of the same character with the River Ouelle's Portage on the American line, there being hardly any sensible elevation between the sources of the rivers flowing in opposite directions. From this last Portage to Mars' Hill, no part of the British line has been surveyed, travelled over, or approached any where, except at its two extremities, nearer than twenty miles.

Not one of the mountains, delineated along the British line, in the British Transcript of the map A, has been visited by any of the Surveyors. The only knowledge of the mountainous character ascribed to that part of the country, is derived from views taken, from different distant points, by the British Surveyors, Mr. Odell and Mr. Campbell.

The substitution of those views to actual surveys having been objected to, a proposition to have new surveys executed, was made by the British Commissioner, when the Board, which had sat for near five years, was on the eve of terminating its labors. This proposal, made after years of explorations in search of highlands by the British Surveyors, at the joint expense of the two Governments, and without having surveyed any part of the line claimed on the part of Great Britain, was of course rejected.

It was, at a still later date, proposed by the British Agent, that the British Surveyors should be examined upon oath. This proposal was with equal propriety rejected, since neither were their *surveys* objected to, nor their veracity impeached; and distant and delusive views could not, by the aid of an oath, or through any other process, be converted into an actual survey of the ground.

The objection was, that a distant view, substituted to a survey, was no evidence of the existence, or position of a ridge or mountain; that it was physically impossible, for any person, without any instrument or observation, and in a country entirely covered with a dense forest, to ascertain whether the elevations of which he might

(*d*) Mr. Loss's Survey of the Portage between one of the Western sources of the South branch of the St. John and one of the North-west sources of the Penobscot—Surveys, Nos. 20 and 19.

courses have a tant and distant view, extended in a direction parallel to that of the water courses, or separated these from each other at their sources; and that the total omission, in Mr. Odell's Sketch, of the water courses, which it was indeed impossible for him to have seen, gave to that part of the country the fallacious appearance of a continuous and huge mountain.

From the simple fact that this proposal was made, it is inferred, in the British Statement, that the statements and *delineations* of the British Surveyors are substantially correct.

The "survey and report of the American Surveyor, Johnson," is set aside, in another part of the Statement, as to a part of the American line, "as altogether ideal and unfounded in fact." It is declared to be so, because it was founded on *views* taken from Green Mountain, about forty to fifty miles distant from that part of the line. (e) Those views are admitted to be no evidence. But, as the qualifications and integrity of the American may be presumed to be equal to those of the British Surveyors, it is clear that, had sufficient attention been paid to the nature of the pretended surveys referred to, it would, by parity of reasoning, have also been declared in the British Statement, that "the surveys and reports of the British Surveyors, Mr. Odell and Mr. Campbell, must be set aside, being, with respect to the country along the British line, altogether ideal and unfounded in fact."

The mountainous character of the Eastern part of the British line is proved no otherwise than by those views and delineations. With respect to the next thirty miles, an appeal is also made to a brief and general account of that part of the country, then altogether unexplored, in Mr. Greenleaf's "Statistical View of the State of Maine," published in 1816. The Western part of the line seems to have been given up in the Statement, although some mountains, never visited by any Surveyor, have found place in that quarter, on the British Transcript of Map A, along the dividing line itself.

But it is important to observe, that the dividing highlands, acknowledged as such by both parties, do not appear to have, every where, that mountainous character which is required according to the British definition.

The Metjarmette Portage, (f) which is common to the two conflicting lines, is of of a similar character with those of the River Ouelle and of the Aliguash. The sources of the Metjarmette, of the Penobscot, and of the St. John, rise close to each other in the same swamp. The acknowledged highlands, for an extent of ten miles in a Southerly direction from that Portage, are designated in Mr. Campbell's Sketch as "low land." And the British Surveyor, Mr. Carlile, speaking of the height of land between the River Connecticut and the sources of the St. Francis, which is a tributary of the River St. Lawrence, says, that its sources are found in the same swampy ground, and a few rods from those of Indian and Hall's Streams, which empty themselves into the River Connecticut.

§ 7.

OBJECTIONS DERIVED FROM A PRESUMED CONSTANT ASSERTION OF THE BRITISH CLAIM SINCE 1783.

Attempts by Canada, 1783, 1794.

Several documents have been adduced, with a view to prove that, from the year 1783 to this time, the Governments of New Brunswick and of Canada have both exercised jurisdiction over the contested territory. The total irrelevancy of those

(e) British Evidence, No. 11, page 155.

(f) The point L, on the American Transcript of Map A. The Metjarmette is a tributary stream of the Chaudiere, which falls into the River St. Lawrence

Attempts by Canada, 1785, 1794.

on the carrying place, situate between the River St. Lawrence and Lake Temiskouata, to examine which way the waters incline on the heights there, that by their course he might be enabled to ascertain the boundary between the Provinces of Quebec and New Brunswick, as all the streams running into the rivers which empty themselves into the River St. John, are in the Province of New Brunswick, and those which fall into the St. Lawrence, are in the Province of Quebec." And he produced his instructions from the Governor of New Brunswick, directing him to be governed by the Act of Parliament, called the Quebec Act.

On the other hand, although it could not be known with any certainty, at that time, where the due North line from the source of the River St. Croix would strike the highlands, it was highly improbable that the point of intersection would be found as far West as the Temiskouata Portage. Mr. Holland, after urging some other considerations, accordingly represented, "*more specially, that the fixing that limit would materially affect the Boundary between us and the United States of America; and that a large territory would thereby be saved, or lost to His Majesty's dominions.*"

A safe and convenient communication between the two Provinces was at all events to be preserved: and how to alter for that purpose the boundary of the United States, as defined by the treaty of 1783, was the difficulty. Mr. Holland appears to be entitled to the credit of having been the first to propose the substitution of a "country extremely mountainous," to the dividing highlands designated by that treaty. He observed that it was generally *understood* in Canada, "that the line between the Provinces of Quebec and New Brunswick, *should* run from the head of Chaleur Bay, along the highlands, in a Westerly direction to the Great Falls on the St. John's River, and from thence West, to the Westernmost, or main branch of the Connecticut River."

Mr. Holland had not at that time, any knowledge of the country: but he did not fail to find it agreeing precisely with his hypothesis. Not being able to agree with the Surveyor of New Brunswick, he proceeded, he says, with his party "to the Great Falls, where we found the country *extremely mountainous*; and, from information gathered from different persons, who have been from the St. John's River back in the country, and my own observations, have no doubt but that these mountains are the range which extend from the Bay of Chaleur to that River."

This substitution, (called a definition) of a generally or extremely "mountainous country," without regard to the division of certain specified rivers, to the "highlands which divide the rivers," &c. has the singular advantage of rendering them moveable at will. And it cannot be doubted that, had the British Agent under the late commission been from Canada, instead of New Brunswick: the mountainous country, extending Westwardly from the Great Falls, would have been pertinaciously contended for in behalf of Great Britain, instead of insisting, as according to the new hypothesis is now done, that the height of land, contemplated by the framers of the treaty, commences at Mars' Hill.

A committee of the Executive Council of the Province of Quebec, appointed the same year, (1787) to consider that subject, appears not to have sustained to its full extent Mr. Holland's report, and to have been of opinion that, in order to extend the jurisdiction of Canada over the River St. John, an *alteration* of its existing Southern boundary was absolutely necessary.

They say, "If the Province of New Brunswick may of right claim the sources of rivers that take their rise on the height of land *which divides the rivers that empty themselves into the St. Lawrence, from those which fall into the Atlantic Ocean*, the *ancient* limits of this Government will be curtailed towards New Brunswick, and Seigneuries under Canadian grants, as far back as the years 1623 and 1683. be taken into that Province." &c.

The committee then propose "that the Province of Quebec *be separated* from that of New Brunswick, by a line running along the highlands, which extend from the head of Chaleurs Bay to the foot of the great fall of St. John's River, and from thence, *crossing* the river, (so as to include the whole of the portage or carrying place) and continuing in a straight line towards the sources of the River Chaudiere, which rise on the highlands, which commence at the said head of the Bay of Chaleurs, and extend all the way to the North-westernmost head of Connecticut River."

Attempt to separate
Quebec, 1783, 1791

This paper is considered, in the British Statement, as "highly valuable and important, especially as proving that whatever disputes may have existed between the respective British Provinces, as to their several limits, not the smallest doubt seems to have been ever entertained by them as to the right of Great Britain to the whole territory thus contested between the Provinces."

And it is afterwards observed, that "the claims of this Province, (New Brunswick) and Canada, with respect to this and other parts of the territory in this quarter, are conflicting inter se, and shew the uncertainty of their respective Boundaries, which in fact, have never been settled, and may require the interference of the mother country to adjust: but these conflicting intercolonial claims, which have arisen since the Treaty of 1783, are altogether irrelevant to the present controversy between Great Britain and the United States, as a foreign power, and under that Treaty."

It is perfectly true, that the United States have nothing to do, and no interest whatever in that part of the Boundary, between New Brunswick and Canada, which was then and still remains unascertained. That portion, which has "not been settled, and may require the interference of the mother country to adjust," is only that which must unite the Western extremity of the Bay des Chaleurs to the dividing highlands, and which lies East of the contested territory.

But the Western boundary of New Brunswick is undisputed, and has, ever since the year 1763, (either as part of Nova Scotia or as New Brunswick) been, according to the Commissions of the Governors, a due North line from the source of the River St. Croix. Wherever that line may terminate, the territory West of it is indisputably without the boundaries of New Brunswick, and, according to the treaty of 1783, within those of the United States.

The Southern boundary of the Province of Quebec or Lower Canada is described, in the Commissions of the Governors, in the same words by which the Northern boundary of the United States is designated in the treaty of 1783, and again in the same words (with only the substitution of "height of land" to "highlands") in the report of the committee of the Provincial Council; viz: "the highlands which divide the rivers that empty themselves into the St. Lawrence from those which fall into the Atlantic Ocean." The territory South of that boundary is indisputably without the limits of Canada, viz: in New Brunswick, if East of the due North line from the source of the River St. Croix; in the United States, if West of that line.

We will now see, how far the Documents, relating to the conflict which took place at that time, sustain "the right of Great Britain to the whole territory thus contested between the Provinces."

Mr. Holland had, with his instructions, received from the Governor of Canada, (Lord Dorchester) copies both of the boundaries of the two Provinces, as prescribed by the Commissions of their Governors, and of the article of the treaty of 1783, relating to boundaries. And his declaration proves, that he was perfectly aware that, if the Southern boundary of Canada was along the highlands which divide the waters of the River St. John from those of the River St. Lawrence, the territory lying on the River St. John, West of the due North line, was part of the United States, and not of New Brunswick.

Attorney-General
1763, 1794.

The Lieut. Governor of New Brunswick (Thomas Carleton) had made no mention in his instruction to the Surveyor General of that Province of its Western boundary, which, by his own commission, was prescribed to be "a line drawn due North from the source of the River St. Croix to the Southern boundary of the Province of Quebec." And without adverting, either to this, or to the boundary of the United States as fixed by the treaty, he only directed him to "be governed by the Act of Parliament for establishing the Province of Quebec, which determines that boundary to be the *highlands which divide those waters that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean.*" (g)

The Surveyor General declared, that he was bound to observe those instructions, and, having accordingly only to determine the position of *those highlands*, gave it as his unalterable opinion, that the boundary ought to be fixed at the height of land on the carrying place, situate between the River St. Lawrence and Lake Temiscouata. The height of land between the River St. Lawrence and Lake Temiscouata, or, in other words, the portage of that name, was therefore, in the opinion of that officer, the boundary of the United States; since, by the treaty of 1783, that boundary is declared to be along "*the highlands which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean.*"

It is equally clear, that the committee of the Executive Council of the Province of Quebec was quite sensible that the Southern boundary of that Province, as defined in the Commissions of its Governors, would curtail the *ancient* limits of Canada, as it existed under the French Government. What they propose is a substitution of Mr. Holland's hypothetical highlands to those that had been designated by the Proclamation of 1763, by the Quebec Act of 1774, by the treaty of 1783, and by all the commissions of the Governors of the Province, as its Southern boundary. They ask accordingly that the Province of Quebec *be separated* (hereafter) from the Province of New Brunswick by Mr. Holland's presumed highlands.

The admission that the change could not be effected, without an alteration of the boundaries prescribed by the Acts of the British Government, is tantamount to an acknowledgment that an alteration of the terms of the treaty was necessary for that purpose; since the same descriptive words are used in those Acts (gg) and in the treaty.

It was quite immaterial, as to the effect on the limits of Canada, by whom the adverse claim might be set up: and the committee declares, that the ancient seigneuries, including the Fief of Madawaska, and the Acadian or Madawaska Settlement, or, in other words, that the waters of the River St. John would be thrown out of the Province of Quebec, if *the height of land which divides the rivers that empty themselves into the St. Lawrence from those which fall into the Atlantic Ocean*, could of right be claimed (whether by the United States or New Brunswick) as a boundary towards Canada. As it is not and cannot be denied, that the boundary thus described is that which, in the same words, is declared by the treaty to be the boundary of the United States, this declaration of the committee again explicitly admits, that the waters of the River St. John are included within the boundaries of the United States.

The conflict between the two Provinces on that occasion, and the confused arguments alleged on both sides, arose solely from their mutual wish, to appropriate to themselves what belonged to another party, and from the impossibility of reconciling the pretensions of either with, not only the treaty of 1783, but all the public acts of Great Britain relating to those boundaries.

Those documents, together with some others, were taken into consideration by the Executive Council, on the 4th August, 1792. And it was thereupon "Ordered

(g) "Sea" in the Quebec Act and not "Atlantic Ocean." But Governor Carleton understood the two expressions to be, as they are in relation to this boundary, synonymous.

(gg) Viz: The Commissions of the Governors of the Province of Quebec.

that these papers be entered upon the minutes, and it is humbly suggested by the ^{Attempts by U. S. to} board, that it may be expedient to transmit copies to the Lieut. Governor of the Province of New Brunswick for his co-operating in representations *to call the attention of his Majesty's Ministers* to the adjustment of the limits necessary for preserving the public tranquillity on the borders of both Provinces."

It is not known to the American Government, whether any decision was had on that subject by that of Great Britain, or whether the abandonment of that pretension, on the part of the Province of Canada, was the natural consequence of the favorable change which, in the year 1794, took place in the relations between the two countries. But the fact is certain, that not a single subsequent act of jurisdiction over the contested territory, by Canada, has been adduced in evidence, (as certainly would have been done had any such existed,) or is known to have taken place.

It is on the contrary in proof, (*h*) that no grants of land have been made by the British Government of Canada, on the waters of the River St. John, or beyond the dividing highlands claimed as their boundary by the United States. And it is also proved, by the concurrent testimony of the inhabitants on the Madawaska River, that the Mount St. Francis, which divides the waters at the Temisconata Portage, has, for more than thirty years, been considered as the boundary of Canada, and the place beyond which no process issuing from that Province can be served; and that a post, which was standing till very lately, had been placed there for the purpose of designating that boundary. (*i*)

We will observe that Great Britain, on the plea of certain infractions of the treaty of 1783, alleged by her to have been committed on the part of the United States, had suspended, on her part, the execution of those conditions of the treaty, respecting boundaries, which had not been carried into effect immediately after its conclusion. (*h*) It was only by virtue and in consequence of the treaty of 1794, that she surrendered, and abandoned her jurisdiction over several posts and countries, within the boundaries of the United States, of which she had remained in possession ever since the year 1783. (*l*)

It is therefore probable, that during the state of suspension and doubt, that existed with respect to the boundaries between the years 1783 and 1794, the Governor of Canada, who had certainly orders not to surrender the Western posts and territory, entertained the hope that the conditions of the treaty would never be fulfilled, and thinking it a favorable opportunity, made the attempt of extending his jurisdiction and actual possession in another quarter. It is certain that from that time to this day, the attempt has not been renewed by the Government of that Province.

The grants of land to the Madawaska settlers, and the jurisdiction exercised over them, by the Government of New Brunswick, are no evidence of there having been an intention prior to the treaty of Ghent, on the part of that Government, to extend its jurisdiction over the contested territory.

The remote situation of an Acadian village, which, as laid down in Mitchell's Map, was at first on an Eastern branch of the River St. John, near the Lake Freneuse or Grand Lake, preserved its inhabitants from being transported and dispersed with the rest of the original, or French, inhabitants of Acadia. They appear subsequently, to have had their village on the river, ten miles above the present site of Fredericton: and they removed thence, upwards, towards the mouth of the River Madawaska, when the British, after the treaty of 1783, extended their settlements up the River

Madawaska
Settlement.

(*h*) See list of British Grants in Bouchette's Appendix. Written Evidence, No. 43.

(*i*) Written Evidence, No. 49.

(*h*) Secret Journals of Congress, IV vol. p. 186 and following.

(*l*) Treaty of 1794—Written Evidence, No. 1.

Madawaska
Settlement.

St. John. They had always resided within the acknowledged boundaries of the British Province of Nova Scotia, now New Brunswick; and had never before submitted to the British Government.

The question respecting the true River St. Croix, was then undecided. It was impossible to know where the due North line from the source of that river would intersect the highlands. Under the belief that the Western branch of the Schoodic would be declared to be the true St. Croix, and if placing reliance on Mitchell's longitudes, the due North line would be supposed to pass West of the Madawaska Settlement.

An apology may be found in that circumstance, for the issuing of those grants, and even for the jurisdiction exercised by New Brunswick, so long as the due North line was not ascertained. It is only since the actual survey of that line, in the years 1817, 1818, that the continued exercise of that jurisdiction must be considered, and has been complained of, as an unjustifiable usurpation.

It is proper further to observe, that the Government of New Brunswick has, at no time, granted any lands in the contested territory, except to those Acadians, nor to any persons whomsoever, from the year 1794 till the year 1825.

The understanding which prevailed on that subject, between the years 1794 and 1814, comes next in order.

With respect to Canada, it has already been shewn by an authentic document, that the Government of that Province has made no grant of land on the waters of the River St. John. What was understood to be the Southern boundary of the Province will still more clearly appear, from the description given by the Surveyor General, Mr. Bouchette. No higher authority can be adduced, in regard to that understanding, since it was a subject immediately connected with his official duties. He is not appealed to, to prove either where, according to the treaty, was the boundary of the United States, or the mountainous character of the height of land or ridges to which he alludes.

He mentions a "ridge, generally denominated the Land's Height, dividing the waters that fall into the St. Lawrence from those taking a direction towards the Atlantic Ocean. . . . This chain commences upon the Eastern branch of the Connecticut River, takes a *North-easterly course*, and terminates near Cape Rosier, in the Gulf of St. Lawrence." (m)

He again states, (page 281,) that "from the Connecticut River the Height of Land . . . runs *to the North-east*, and divides the waters that fall into the Saint Lawrence from those flowing into the Atlantic; and which height, after running some distance upon that course, sends off *a branch to the Eastward*, that separates the heads of the streams falling into Lake Temiscouata and River St. John, and by that channel into the Bay of Fundy, from those that descend in a more direct course to the Atlantic. The *main ridge*, continuing its *North-easterly* direction, is intersected by an imaginary line, prolonged in a course astronomically due North, from the head of the River St. Croix; and which ridge is supposed to be the boundary between Lower Canada and the United States: at least, such appears to be the way in which the treaty of 1783 is construed by the American Government."

Mr. Bouchette expressly distinguishes two ridges, the main, or *North-easterly*, claimed by the United States as their boundary, and the *Eastward* branch, which separates the tributary streams of the River St. John from those which he describes as falling more directly into the Atlantic. This last ridge, he immediately after argues to be the true boundary of the United States, and is that which is claimed as such by Great Britain.

British Claim not
asserted, — 1794,
1814.

The only question concerning which the Surveyor General of Canada is appealed to as competent authority, is, which of those two ridges had been considered in Canada as the actual Southern boundary of the Province, such as it was established by the Quebec Act, of 1774, and designated in the Commissions of the Governors. This is stated also in the clearest manner by the Surveyor General.

“The Province of Lower Canada is divided into the districts of Montreal, Three Rivers, Quebec, and Gaspé.”

“The district of Three Rivers lies between those of Montreal and Quebec, is bounded on the South by part of the line of 45 degrees of North latitude, and the ridge of mountains stretching to the North-east.

“The district of Quebec extends on the South side (of the River St. Lawrence) as far down as Cape Chat, where it is met by the district of Gaspé; to the Southward it is bounded by the ridge of mountains already designated as the North-easterly chain.” (n)

Cape Chat, the Eastern boundary of the district of Quebec, lies East of the meridian passing by the source of the St. Croix. From the sources of the Connecticut River to the North-west angle of Nova Scotia, the United States are bounded on the North by the Canadian districts of Three Rivers and Quebec. And the North-easterly chain, or ridge of highlands, claimed by the United States as their boundary, is that which is declared by the Surveyor General of Canada to be the Southern boundary of those two districts. If any doubt should remain, as to what he intended by the North-easterly ridge, reference may be had to his large map of Lower Canada, (o) where the North-easterly ridge or height of land is, under that designation, laid down as dividing the River Verte and River Trois Pistoles, both emptying themselves into the River St. Lawrence, from the River St. Francis, the waters of Lake Temiscouta and other tributary streams of the River St. John.

That the same general understanding prevailed in New Brunswick, may be proved by the argument delivered, in the year 1798, by his Britannic Majesty's Agent, a distinguished inhabitant and public officer of that Province, before the Commissioners appointed under the 5th article of the treaty of 1794.

Three points were at that time contended for, as being the true source of that river. 1st. The source of its Western branch, which was the most Western point that could be selected, being the point W on the American Transcript of the map A. 2. The outlet of the Scoudiac Lakes on the same branch, being the most Eastern point, and marked Q on said transcript. 3. The source of the Northern branch or Cheput natecook, marked O on said transcript, which was finally adopted, and which lies East of the source of the Western branch, but West of the outlet of the lakes.

Whilst the first and third points were the subjects of discussion, the British Agent strongly contended for the first, or most Western. And, in the course of his argument, after having urged the propriety of leaving to each party the sources of the rivers whose mouths are within their territories, respectively, he expresses himself in the following words, viz:

“A line due North from a source of the Western or main branch of the Scoudiac, or St. Croix, will fully secure that effect to the United States, in every instance, and also to Great Britain, in all instances, except in that of the River St. John, wherein it becomes impossible So that this North line must, of necessity, cross the River St. John; but it will cross it in a part of it (p) almost at

(n) Bouchette, pages 86, 285, 374 and 375. Written Evidence, No. 43.

(o) Engraved Maps, No. 40.

(p) Line WX on American Transcript of Map A

British Claim
not asserted, 1794
—1814.

the foot of the highlands, and where it ceases to be navigable. But if a North line is traced from the source of the Cheputnatekook, (g) it will not only cross the River St. John within about fifty miles from Fredericton, the Metropolis of New Brunswick, but will cut off the sources of the rivers which fall into the Bay of Chaleurs," &c.

"In most, if not all, the maps of the interior country, published before the year 1783, . . . a line drawn North from that termination (of the River St. Croix) upon those maps, will not intersect any of the rivers which empty themselves into the sea, to the Eastward of the mouth of the River St. Croix, *except the River St. John.*" (r)

The same officer, as his Britannic Majesty's Agent under the late Commission, sustained, with great zeal, the new pretension of Great Britain: and his reasons, why his former opinion should not be deemed conclusive and binding, will be found in the Appendix. (s)

He is quoted as very competent authority of what was the prevailing understanding in New Brunswick, in the year 1798, and to shew that, at that time, with the treaty and printed maps before him, and with a general knowledge of the country, he construed that instrument, as every other person then did, according to its obvious and natural sense.

It was afterwards ascertained, that the Commissioners intended to declare, as the true source of the Schoodiac, the outlet of the lakes, (the point Q,) which is still further East than the source of the Cheputnatekook, (the point O.) But the American Agent proposed, in order to secure a small tract of valuable land between the two branches, to agree that the last mentioned source should be fixed as the true source of the river. As, for the reasons already alleged, the British Agent preferred at all events the most western point that could be obtained, he acquiesced in this proposal, provided it should be approved by Sir Robert Liston, then his Britannic Majesty's Minister to the United States. And this eminent person agreed to it for the very same reason. In his letter of 23d October, 1798, to the Agent, he says: (t)

"It appears to me evident that the adoption of the River Cheputnatecook, as a part of the boundary between His Majesty's American dominions and those of the United States, in preference to a line drawn from the Easternmost point of the Schoodiac Lakes, would be attended with considerable advantage. It would give an addition of territory to the Province of New Brunswick, together with a greater extent of navigation on the St. John's River," &c. (u)

Had it not been understood that the due North line must necessarily have crossed the River St. John, the whole of that river, and of its navigation, would have belonged to Great Britain, whatever was the point from which that North line should be drawn. It was only with the understanding that that line must, at all events, cross that river, that the extent of navigation secured to New Brunswick could be greater or less, as the North line crossed the river more or less Westwardly. Mr. Liston, therefore, construing the treaty as every other person did at the time, knew that the highlands, designated by that instrument, must be North of the River St. John's, and that the North line, in order to meet them, must cross the river.

The assertion, in the British Statement, that the right to the possession of the contested territory was first called in question by the United States, and that only con-

American Claim
asserted.

(g) Viz: QR on American Transcript of map A.

(r) Written Evidence, No. 35, pages 272 and 273.

(s) Written Evidence, No. 55.

(t) Written Evidence, No. 61.

(u) Viz: the extent along said River, contained between the points where it is intersected by the lines OA and QR respectively

structively, at the period of the negotiations at Ghent, in 1814, does not present a correct and complete view of what relates to that particular point. American Claim asserted.

The *right* of Great Britain to the territory, had never been called in question, by the United States before the negotiations at Ghent, in 1814, because it was then, for the first time, made known to them, that Great Britain intended to set up such a claim. And her right to the *possession* of the Madawaska Settlement was not called in question, or even alluded to at Ghent, because it had not been ascertained at that time, whether that settlement lay East or West of the line drawn due North from the source of the St. Croix.

That line was not surveyed till the years 1817–1818: and this is also the reason why the inhabitants of Madawaska were included in the American Census of the year 1820, and not in that of the year 1810.

The remoteness of the territory on the waters of the River St. John, from the American settlements, which did not extend far up the Penobscot, had rendered other acts of jurisdiction, on the part of the United States, unnecessary, prior to the war, which was terminated by the Treaty of Ghent. And their subsequent forbearance, since that question has become a subject of discussion, notwithstanding the continued usurpation of New Brunswick over the contested territory, is very improperly converted into an assertion of exclusive and undisturbed possession, by Great Britain.

On the question of right, it was not even suspected, that there did, or could, exist any doubt. The boundary is laid down in all the maps of the District, now State of Maine, along the true highlands designated by the Treaty.^(v) There was no hesitation or doubt on the subject, on the part of Massachusetts. She granted lands, as a matter of course, in that as well as in every other part of her territory.

As early as the year 1792, a contract was entered into, between that State and certain individuals, for the sale of a tract of land containing more than two millions of acres, and extending to the very highlands in question. Although the conditions of the agreement were not fulfilled by the purchasers, and it was not ultimately carried into effect, this tract, or another substituted for it, appears to have been surveyed, and is accordingly laid down in the maps of the District of Maine.^(w) Actual grants of land were afterwards made by the State, and as late as the year 1813, to various academies, towns, and individuals.^(x)

The obscure acts by which Canada had, during the years 1784–1794, attempted to extend her jurisdiction over the upper waters of the River St. John, and the application by the council of that Province, for an alteration of its boundaries, had remained of course entirely unknown to the Government of the United States; whilst that effort, and the complete abandonment of that pretension during the twenty subsequent years, must necessarily have been within the knowledge of His Britannic Majesty's Government. The reasons why the jurisdiction of New Brunswick had been extended over the Madawaska Settlement have been sufficiently explained. And the official declarations of the Chief Justice of that Province, in his character of Agent, and of His Britannic Majesty's Minister to the United States, leave no doubt that it was at Ghent, in the year 1814, that any pretension to the contested territory was, for the first time, suggested by the Government of *Great Britain*. If any further proof was wanted to establish that fact, it will be found in the manner in which that claim was brought forward in the course of those negotiations.

(v) Engraved Maps, Nos. 36, 37 and 38.

(w) Engraved Maps, Nos. 36 and 37. A discrepancy between the boundaries in the agreement and those in the Maps, not having been discovered till after the 1st January 1829, must be left unaccounted for.

(x) Written Evidence, No. 31.

The British Plenipotentiaries at that time, when explaining what they meant by a revision of the frontiers generally, and after saying that Great Britain did not desire it with any view to the acquisition of territory, *as such*, enumerated amongst the subjects of discussion, not the ascertaining in conformity with the Treaty of 1783, but “such a VARIATION of the line of frontier, as might secure a direct communication between Quebec and Halifax.” (y)

This was not a casual expression, but a deliberate and solemn exposition of the terms on which Great Britain proposed to make peace. One of the Plenipotentiaries, who now occupies a distinguished place in the British Cabinet, was at that time one of the Secretaries of State for the Colonial Department, and probably the member of the British Government most intimately acquainted with the interests and desires of the British Provinces, and with whatever related to that subject. There could not be a more express acknowledgment, than the proposition made under such circumstances, and in such terms, that the desired communication could not be obtained without a *variation* of the line established by the Treaty of 1783.

It was only after the explicit declaration of the American Plenipotentiaries, that they had no authority to cede any part of the territory of the United States, and would subscribe to no stipulation to that effect; and after having lost all hope of obtaining a variation of the line, that the British Plenipotentiaries changed their ground. It was then, for the first time, gratuitously asserted, that the American Plenipotentiaries were aware that the boundary *asserted at present by the American Government*, by which the direct communication between Halifax and Quebec became interrupted, was not in contemplation of the British Plenipotentiaries who concluded the Treaty of 1783.

Even this assertion was accompanied by a declaration, that the British had not anticipated the statement made by the American Plenipotentiaries,—viz: that they had no authority “to cede any part, however insignificant, of the territories of the United States, although the proposal left it open to them to demand an *equivalent for such cession*, either in frontier or otherwise.” (z)

The American Plenipotentiaries answered, that they had never understood that “the British Plenipotentiaries who signed the treaty, had contemplated a boundary different from that fixed by the treaty, and which required nothing more in order to be definitively ascertained than to be surveyed in conformity with its provisions;” and that they had “no authority to cede any part of the State of Massachusetts, even for what the British might consider a fair equivalent.” (a) And they subsequently declared “that they did not decline discussing any matter of uncertainty or dispute respecting the boundaries in that or in any other quarter,” and that they were “prepared to propose the appointment of Commissioners by the two Governments to extend the line to the highlands, conformably to the treaty of 1783.” But they added that “the proposal, however, of the British Plenipotentiaries was not to ascertain, but to vary, those lines, in such manner as to secure a direct communication between Quebec and Halifax; an alteration which could not be effected, without a cession by the United States to Great Britain of all that portion of the State of Massachusetts intervening between the province of New Brunswick and Quebec, although unquestionably included within the boundary lines fixed by that treaty. (b)

To this last observation the British Plenipotentiaries replied, that the British Government never required that *all that portion* of the State of *Massachusetts* intervening between the province of New Brunswick and Quebec, *should be ceded* to

(y) Written Evidence, No. 46—British Note of 19th August, 1814.

(z) British Note of 4th Sept.—Written Evidence No. 46.

(a) American Note of 9th September.

(b) American Note of 26th September.

Great Britain, but *only that small portion of unsettled country which interrupts the* ^{Negotiations at Ghent.} communication between Halifax and Quebec, there being *much doubt* whether it does not already belong to Great Britain. (c)

The proposal of the American Plenipotentiaries to appoint Commissioners was acceded to, and extended to the whole line of frontier, from the source of the river St. Croix, to the Lake of the Woods. And the contingency of a disagreement between the two Commissioners was provided for; no power to vary the line being given in either case; but the express purpose being, that it should be ascertained and surveyed in conformity with the provisions of the treaty of 1783.

Thus it appears, that the American Plenipotentiaries denied the intentions ascribed to the British Ministers who had signed the treaty; that they uniformly rejected any proposal to vary the line, and to cede any part of the territory of the United States, or of the State of Massachusetts; and that they agreed to the reference, only on the general ground of leaving to an amicable mode of settlement all the questions relative to the whole of their extensive frontier, which had not yet been actually ascertained and surveyed.

It will now be asked, whether a demand made, on a most solemn occasion, by the British Government itself, of a VARIATION of the boundary line defined by the treaty of 1783, at the same time that another demand was also made of one half of the great lakes, and of the rights of sovereignty over the shores secured to the United States by the same treaty; whether that demand, connected, not only with the intervening declarations of the British Minister to the United States, and of the British Agent on the adjoining portion of the same boundary, but also with the entire abandonment during the twenty preceding years, of any claim to the jurisdiction over the contested territory, by that British Province within whose boundaries, if belonging to Great Britain, that territory was clearly included; whether such demand, under such circumstances, was not a most explicit acknowledgment of the previous undoubted right of the United States to that territory, and does not decisively refute the late assertions of an exclusive and undisturbed possession by Great Britain, and of a constructive claim but lately advanced by America?

And it might also be asked, what degree of confidence the British Plenipotentiaries could have had in that claim, in behalf of Great Britain, so reluctantly suggested, and never, to the last moment mentioned, but by the name of *cession*, with the tender of an *equivalent*, and in the shape of a doubt? And what was meant by that *small portion of unsettled territory*, not including therefore the Madawaska Settlement, the cession of which alone was required, and *to which alone* applied the concluding observation, that there was *much doubt* whether it did not already belong to Great Britain?

An allusion has been made, in the British Statement, to a letter written by one of the American Plenipotentiaries to his Government, subsequent to the signature of the treaty. Every thing contained in a letter of that description is wholly irrelevant to the question: since a minister, when writing *to*, does not act as the organ of his Government. It will be sufficient to observe here, in the first place, that it has been fully demonstrated, in the First American Statement, by the very document to which he appealed, that the American Plenipotentiary was altogether mistaken in supposing that the contested territory was not within the boundaries of the State of Massachusetts; and secondly, that if the boundary lines designated by the previous public acts of Great Britain, and adopted by the treaty of 1783, had embraced any portion of territory not included within the chartered limits of Massachusetts' Bay, such portion would nevertheless have undoubtedly belonged to the United States. (d)

(c) British Note of 8th of October.

(d) For some further observations on that letter, see Note D, at the end of this Statement

Much stress cannot be laid on the opinions or acts of either party subsequent to the treaty of Ghent, in relation to the contested territory which from that time became an avowed subject of discussion.

The continued jurisdiction of New Brunswick, even after the due north line had been surveyed, has already been adverted to. The grant of a tract of land in the year 1825, and the subsequent arrest and trial of an American citizen, have afforded just grounds of complaint. But it is remarkable, that those very acts afford an additional proof of that inconsistency which naturally grows out of the British pretension.

No act of the province of New Brunswick could make a place which lay West, to be East of the due North line, nor therefore remove the district occupied by the Madawaska settlers within the boundaries of the Province.

The only thing which is decisively proved by those acts is, that in the opinion of the New Brunswick authorities, the contested territory is not within the boundaries of Canada. And they do not seem to have perceived, that this was tantamount to an acknowledgment that it did belong to the United States. For, if not in Canada, it is because the pretended highlands, extending from Mars' Hill to the North-westernmost source of the Penobscot, are not the Southern boundary of that Province.

And since the Southern boundary of Canada is identic with the Northern boundary of the United States, if it is to be found North of those presumed highlands, and even of the River Madawaska, the territory lying South of it, and North of the line claimed by Great Britain, makes part of the United States.

Of this the British Government seems at last to have become aware. Hence the effort, with the aid of the chief of Madawaska, and of some ancient attempts which have not been renewed for more than thirty years, to substitute to the usurped jurisdiction of New Brunswick, a pretended possession derived from Canada.

Accordingly, in the "map of the British Possessions in North America, compiled from documents in the Colonial Department," and ordered to be printed in June 1827, by the House of Commons, (e) the due North line is made to terminate at the Ristigouche River; the boundary line between the United States and Canada is laid down, according to the British pretension, from Mars' Hill to the Western source of the Penobscot; and all that lies North of that boundary and West of the due North line, including the Madawaska Settlement, is made part of Canada and not of New Brunswick.

But, whilst trying to avoid the inconsistency growing out of the usurped jurisdiction of New Brunswick, the Colonial Department was, from the nature of the British pretension, necessarily drawn into another.

It is in proof, that the Western and Northern boundaries of New Brunswick, and the Southern boundary, of Canada have not been altered since the treaty of 1783; (f) that the legal North-west angle of New Brunswick is identic with the North-west angle of Nova Scotia, established in the year 1763, and referred to and defined in the treaty of 1783; and that that angle is accordingly at the point of intersection of the due North line with the Highlands designated by the treaty, and forming the Southern boundary of Canada.

Instead of being on any highland, the North-west angle of New Brunswick is, in the map in question, placed in the bed of the River Ristigouche. And, forgetting that, by the treaty, the summit of the North-west angle of Nova Scotia was also the summit of the North-east angle of the United States, the Colonial Department has

(e) Engraved Map, No. 45.

(f) See Lord Aberdeen's Marginal Notes to Nos. 12, 14, and 16, of Mr. Barbour's List. Written Evidence, No. 31; and Governor's Commissions, Written Evidence, Nos. 3, 21, 37 and 38.

placed that North-east angle at Mars' Hill, fifty miles South of the point where it ^{New Brunswick} places the North-west angle of New Brunswick or Nova Scotia. Mars' Hill, the pre- ^{Jurisdiction.} tended North-east angle of the United States, so far from being the North-west, is not even one of the angles of New Brunswick, but only a point on one of its boundary lines.

The same contradiction attaches to the legitimate acts of New Brunswick, in reference to the territory within its acknowledged boundaries.

Supposing a due North-east line to be drawn from Mars' Hill towards the Bay des Chaleurs, every place situated North-west of that line, will of course be North-west of Mars' Hill; and this last mentioned point cannot be the North-west angle of New Brunswick, if any such place is within the boundaries of that Province.

Yet the jurisdiction of the province has uniformly been exercised, both before and since the claim to the contested territory has been a subject of discussion, far North-west of such supposed North-east line, as far at least as the Falls of the River St. John, and as the River Ristigouche above its junction with the Matapediae. Amongst the numerous annexed documents, (g) adduced in proof of that fact, will be found several laws for opening roads as far as the Ristigouche, for regulating the fisheries of that river generally, and for the erection amongst others of the county of Northumberland, and of the Parish of Eldon; as well as grants of land to Mann and others, on the Ristigouche, to John King, on the St. John at the mouth of Salmon River, and to A. Stewart, above the Great Falls of the St. John. The position of those various places will be found on the American Transcript of the map A, and are all of them North-west of Mars' Hill.

This last mentioned point, which is near forty miles due South of Stewart's Grant, was not therefore in the opinion of the authorities of New Brunswick, the North-west angle of that province. And assuming the ground, that the contested territory was, as it is pretended there, a part of the province, the contradiction between that supposed extension of New Brunswick, and the assertion that Mars' Hill is its North-west angle, will appear still more forcibly, since it is evident that, in that case, the North-west angle must be found on the Temiscouata Portage, more than one hundred miles North-west of Mars' Hill.

SECOND PART.

THE BRITISH LINE EXAMINED.

§ 8.

TERMS OF THE TREATY

The Statement on the part of Great Britain, resolves itself into an attempt to shew ^{Terms of the} that the River St. John is not one of those rivers falling into the Atlantic Ocean, which ^{Treaty.} were *intended* by the Treaty to be divided from those which empty themselves into the River St. Lawrence: and that the highlands, described by the treaty as dividing those rivers from each other, are situated about 120 miles West of any part of the line drawn due North from the source of the River St. Croix, and extend only from the North-westernmost source of the River Penobscot, to the sources of the Connecticut River.

The various reasons alleged to sustain those two positions have been examined at large, and, it is believed, conclusively refuted. But, it was incumbent on Great

(g) See Written Evidence, Nos. 47 and 48, and Printed Statutes.

Terms of the
Treaty.

Britain to have shewn, in the first place, that the boundary line claimed, in conformity with that hypothesis, could be reconciled with the terms of the Treaty. The true question at issue, and to which we must now revert, is, whether the North-west Angle of Nova Scotia may, in conformity with the treaty, be placed on or near a certain hill, which does not divide, and is not, in any direction, within 120 miles of any highlands that do actually divide the rivers designated by the treaty; and whether the boundary line may, in conformity with that instrument, for three-fifths of its extent from the North-west Angle of Nova Scotia, be along highlands which do not divide those rivers from each other.

The North-west Angle of Nova Scotia, is, by the treaty, declared to be "formed by a line drawn due North from the source of St. Croix River, to the highlands."

Immediately following the last mentioned words, viz: "to the highlands," the words (in reference to the boundaries,) are, "along the *said* highlands, which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean."

The words, "the said highlands," identify, therefore, the highlands at which the due North line terminates, with the highlands which divide the rivers specified by the treaty.

The East boundary of the United States, is by the treaty declared to be, "a line to be drawn along the middle of the River St. Croix, from its mouth in the Bay of Fundy, to its source; and from its source, directly North to the aforesaid highlands which divide the rivers that fall into the Atlantic Ocean, from those which fall into the River St. Lawrence."

Thus the line drawn due North, or directly North, from the source of St. Croix River, is, in two different clauses of the treaty, declared to extend to, and to terminate at, the highlands which divide the rivers designated by the treaty. That line is that which forms the North-west Angle of Nova Scotia. The Northern termination of that line, and the summit of that North-west Angle are identic. It appears impossible to have devised expressions, that could, with greater precision, have determined the position of the North-west Angle of Nova Scotia, as being that point, on the highlands which divide the rivers specified by the treaty, where the said highlands are intersected by the line drawn due North from the source of the River St. Croix.

It is impossible to form any conjecture of the reasons which may be alleged, in the Definitive Statement on the part of Great Britain, in opposition to those explicit and express terms of the treaty. We can only recur to those which were alleged by the British Agent and the British Commissioner, under the late Commission: and we may venture to assert, that, now as then, it will be necessary to resort, not merely to an unnatural interpretation, but to a positive alteration of the terms of the treaty, by the subtraction of some of the words used in it, or by the interpolation, or substitution of other expressions.

The British Agent argued, without taking any notice of the word *said*, which identifies the highlands on which the North-west Angle of Nova Scotia is placed by the treaty, with the highlands which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean; and as if that word *said* made no part of that clause of the treaty. And, with respect to the description of the Eastern boundary, as contained in the latter clause, he contented himself with saying, that it must not be construed literally; which means, that that clause must be considered as null, since it is susceptible but of one construction.

The opinion of the British Commissioner may be considered as of greater weight; and we will quote his own words from his report to the two Governments.

"The extension of the due North line beyond the River St. John, does not agree with the words of either of the said treaties, which direct that the due North line from

the source of the River St. Croix, shall extend to the highlands, evidently meaning the *first* highlands, corresponding with the subsequent description, at which that line should arrive; for if the framers of the treaty had other high lands in contemplation, further North, they would have excluded the first highlands, by an express exception of them." (h)

Now, as the highlands for which the British Commissioner contends do not correspond with the subsequent description of highlands, viz: highlands which divide certain rivers specified by the treaty; it is clear, that what he means, and the alteration is explicitly adopted in the British Statement, is to substitute the words, "the first highlands at which the due North line should arrive," to the terms of the treaty. With respect to his last *argument*, it is sufficient to observe, that the framers of the treaty, by describing the highlands as dividing the rivers therein designated, did exclude all other highlands, including the first highlands, (so called) which the due North line might meet.

The British Commissioner further says:

"Had the highlands to be met with on the due North line, been intended to be those which divide the rivers, the words of the treaty would have been, *due North from the source of the St. Croix River, to the highlands which divide those rivers which empty themselves into the St. Lawrence, from those which fall into the Atlantic Ocean.*

"The reverse is the case; the due North line is to stop at the highlands, and from thence a second line is to commence, (which two lines form the North-west angle of Nova Scotia,) (i) and proceed in a Westerly direction, *along, or passing* those highlands which divide the rivers," &c. &c. &c. (k)

Here the British Commissioner positively asserts, that it was not intended that the termination of the due North line, (or North-west angle of Nova Scotia,) should be on the highlands which divide the rivers specified by the treaty. He insists, that the due North line is to stop at the highlands, meaning the first highlands met by that line, and that the dividing highlands are to be found only somewhere on the line which thence proceeds in a westerly direction. And he states what the words of the treaty would have been, had the dividing highlands been intended to be met by the due North line.

In order to shew, that, instead of proving what he wished to establish, the British Commissioner has been unconsciously drawn into an admission that the due North line must necessarily extend to the highlands which actually divide the rivers specified by the treaty, it is sufficient to compare the expressions, which, he says, should have been used, had the intention been such, with those actually used in the treaty itself.

| <i>By the Treaty.</i> | <i>Proposed by British Com'r.</i> | <i>By the Treaty.</i> |
|---|---|--|
| From, &c. formed by a line, drawn due North from the source of St Croix River to the highlands, along the <i>said</i> highlands which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, to, &c. | From, &c. formed by a line, drawn due North from the source of St. Croix River to the highlands which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, to, &c. | East by a line, to be drawn from its source, (of the St. Croix River) directly North to the aforesaid highlands, which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, to, &c. |

(h) Written Evidence, No. 53, page 373.

(i) The Angle thus described, is the North-east Angle of the United States, and not the North-west Angle of Nova Scotia. This is formed, by the line drawn due North from the source of the St. Croix to the highlands, and by the highlands which extend from the point of intersection, not Westwardly to the Connecticut River, but Eastward, to the Bay des Chaleurs.

(k) Written Evidence, No. 53, page 376.

From the
treaty

It cannot be denied, that those three modes of expression mean the same thing, and designate, with equal precision, the dividing highlands to which the due North line must be extended, and the Northern termination of that line, or North-west Angle of Nova Scotia.

This point of departure being thus expressly determined, the boundary line is declared, by the treaty, to be *from* that point, *along* the highlands described by the treaty, *to* the source of the Connecticut River.

But if, as is asserted by Great Britain, the due North line does not extend to the highlands which divide the rivers described by the treaty, the boundary cannot, *from* what she calls the North-west angle of Nova Scotia, *be along* those highlands; although it may *meet* them at the distance of 120 miles: and the assertion is, therefore, again, in this respect, in direct opposition to the express terms of the treaty.

According to the treaty, it is *from* the North-west angle of Nova Scotia that the boundary line is declared to be *along* the highlands which divide the rivers designated by the treaty.

According to Great Britain, it is *from another point*, 120 miles distant, that the boundary line is *along* the said dividing highlands: and, *from* Mars' Hill, which she declares to be the North-west Angle of Nova Scotia, the said boundary line, instead of being *along* the highlands, which divide the rivers designated by the treaty, is *avowedly* along other highlands, dividing other rivers, and connected, at the distance of 120 miles, with the highlands designated by that instrument.

In describing a boundary line, there are three requisites; the point at which it begins, that at which it terminates, and the course or direction which it follows between those two points. The most appropriate words, those in most common use for that purpose, are, *from*, *to*, and *along*, or *by*: *from* the point at which the line begins; *to* the point at which it terminates; *along* the direction, or *by* the course which it follows.

The word *from*, both from its etymology and uniform use when applied to place, is that which most precisely designates *beginning*, and excludes any possible interval, between the point to which it refers, and that where the course or direction assigned to the line, does begin. The word *along*, as applied to such course or direction, means *the whole length, following the course of, keeping company with*, means nothing else, and is never used in any other sense.

The treaty having declared the boundary, *from* the North-west Angle of Nova Scotia, *to* the North-westernmost head of Connecticut River, to be *along* the highlands which divide the rivers, &c. that boundary cannot, without a direct violation of the express terms of the treaty, leave the said highlands, at any place, or for any distance, between that angle and that head: it must, through its whole length, between those two points, keep company with and follow the course of those highlands.

What precludes any cavil respecting the obvious meaning of those emphatic words in the treaty, is, that there was, in that respect, a defect in the public acts of Great Britain, from which the description of the line was borrowed: and that that defect was corrected by the framers of the treaty, who placed, in most explicit terms, the beginning and the termination of the boundary line, on the actual dividing highlands.

According to the Proclamation of 1763, the line, crossing the River St. Lawrence and the Lake Champlain in 45 degrees of North latitude, *passes along* the highlands which divide the rivers that empty themselves into the said River St. Lawrence, from those which fall into the sea, *and also along* the North coast of the Bay des Chaleurs, &c.

This description is vague, inasmuch as it does not prescribe the manner in which the line is to pass from the highlands to the North coast of the Bay des Chaleurs. There is a chasm, in the description, between the highlands and that coast: but, though

defective in that respect, the expressions used in the Proclamation do not contradict ^{Terms of the Treaty.} the description.

The subsequent Act of Parliament of the year 1774, declared the Province of Quebec to be "bounded on the South, by a line *from* the Bay of Chaleurs, *along* the highlands which divide the rivers (last above mentioned,) *to* a point in 45 degrees of Northern latitude on the Eastern bank of the River Connecticut."

This description was not merely vague, but inaccurate. The same chasm, as in the Proclamation, was left between the extremity of the Bay of Chaleurs and the dividing highlands; and there was besides another, between those highlands and the point in 45 degrees of Northern latitude on the Eastern bank of the River Connecticut. The use of the words *from* and *to* was therefore inappropriate.

But the framers of the treaty of 1783, discussing the terms of an international compact, with the avowed view that all disputes which might arise in future on the subject of the boundaries might be prevented, corrected the defects of the former description, and used no expressions but such as were strictly applicable to the boundary agreed on, and described in the treaty.

The manner in which the line necessary to connect the dividing highlands with the Bay des Chaleurs ought to have been described, was foreign to the subject matter of the treaty; since that particular portion of the Southern boundary of the Province of Quebec lay far East of the territories of the United States, and made no part of their boundary as agreed on by the treaty. It was a boundary only between Canada and Nova Scotia; it belonged to Great Britain alone to determine what had there been left indefinite by the Quebec Act: and it has already been observed, that when an allusion is made in the British Statement, to the uncertainty which still prevails respecting the boundaries between those two Provinces, the remark applies exclusively to that part of their boundary, and not at all to any portion which can affect the boundaries of the United States, and the question now under discussion.

The point from which, by the Quebec Act, the line along the highlands was to commence, was not on the highlands; and the word *from* was therefore inapplicable. But the framers of the treaty placed, in the most precise and express terms, the point at which the line along the highlands was to commence, that is to say, the North-west angle of Nova Scotia, on the actual dividing highlands; and to that point, therefore, the word *from* was strictly applicable, and the appropriate one to be used on the occasion. It is only, in case they had not thus expressly placed the North-west angle of Nova Scotia, or place of beginning, on the dividing highlands, that it might have been alleged, that the words *from*, *along*, and *to*, did not imply the necessity of the boundary line being, through its whole extent, along the highlands which divide the rivers designated by the treaty.

Thus, in a public Act, designating a boundary line as extending *from* Stutgard along the Rhine, *to* Cologne, the description would be defective, and the word *from* improperly used, since Stutgard is not on the Rhine; and it would be absurd thence to argue that in another public Act declaring the boundary to be *from* Basil, *along* the Rhine *to* Cologne, it might from Basil, for one half of the distance *to* Cologne, pursue another direction than *along* the Rhine.

But the care with which, whilst adopting the point in 45° North latitude on the bank of the Connecticut River, the framers of the treaty corrected, in that part of the boundary, the defective description of the Quebec Act, affords the most conclusive proof of the deliberate attention which they paid to the subject, and that the words *from*, *along*, and *to*, were not inadvertently introduced; since, fully aware of their import, the negotiators altered the description of the boundary, so as to make it exactly correspond with the true and only appropriate meaning of those words.

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It has already been observed that the correction consisted in placing the termination of the line which extends along the highlands, at that point where the boundary must necessarily leave them, that is to say, at the source of the Connecticut River; and in describing as another line, that which from that source extends "down along the middle of that river to the 45th degree of North latitude."

Another conclusive proof of the meaning of the words *from*, *along*, and *to*, as used in this article of the treaty, with reference to the beginning, course, and termination of the boundary, is found in the subsequent parts of the same article, in which they are used for the same purpose, and in the same express sense, not less than eight times, viz:—

"To the North-westernmost head of Connecticut River, *thence* down *along* the middle of that river to the 45th degree of North latitude."

"The River Iroquois, or Cataraquy; *thence along* the middle of said river *into* Lake Ontario."

"The communication by water between that lake and Lake Erie; *thence along* the middle of said communication *into* Lake Erie."

"The water communication between that lake and Lake Huron; *thence along* the middle of said water communication *into* the Lake Huron."

"The River Mississippi; *thence* by a line to be drawn *along* the middle of the said River Mississippi, *until* it shall intersect the Northernmost part of the 31st degree of North latitude."

"The River Appalachicola or Catahouche; *thence along* the middle thereof *to* its junction with the Flint River."

"St. Mary's River; and *thence* down *along* the middle of St. Mary's River *to* the Atlantic Ocean."

"East, by a line to be drawn *along* the middle of the River St. Croix, *from* its mouth in the Bay of Fundy *to* its source."

In this last instance, the words *from* and *along* are used; in the others, the words are *thence* and *along*. The mode of reasoning generally adopted by the British Agents, under the late Commission, renders it perhaps necessary to observe, that the word *thence*, as applied to place, means *from that place*, *from that point*; and that, therefore, the words *from a certain point*, and *thence*, as applied to a point just before mentioned, are synonymous.

It will not be denied that, in every one of the instances which have been quoted, the boundary line was to extend without chasm or interruption, *from* the point of departure, *along* the defined river or water communication, *to* some other specified point or place. Thus, in the last instance, the line does begin at the mouth of the River St. Croix, and *from* that point extends without any interruption, *along* the middle of the said river *to* its source. It is the same in all the other instances. And, in like manner, the boundary line beginning at the North-west angle of Nova Scotia, must, according to the treaty, *from that point* extend without any interruption, *along* the highlands which divide the rivers designated by the treaty, *to* the North-westernmost head of Connecticut River. To deny this would not be less repugnant to common sense, than if it was asserted that the Eastern boundary, instead of keeping, through its whole extent, *from* the mouth of the River St. Croix, *to* its source, *along* the middle of that river, might, in conformity with the treaty, have been a straight line, *from* the mouth of the river to the junction of its North and West branches.

The extraordinary manner, in which the British Agent, under the late commission, attempted to evade that express provision, affords another proof of the impossibility of reconciling the pretension of Great Britain with the terms of the treaty. He has simply proposed to alter the expressions used in the treaty, and he has suggested several ways of doing it.

1. The words used in the treaty, viz: "North to the highlands" are, he says, ^{from the 1800 Treaty.} "evidently to be understood as intending that the North line should terminate whenever it reached the highlands, which, in any part of their extent, divide the waters mentioned in the treaty." (l)

2. What he calls the intention of the treaty, will, he says, "be literally effectuated by a very small *variation* of the expression actually made use of in this regard, namely, by describing the second line forming this angle in the following words, that is to say; along the said highlands *where they* divide those rivers, &c. the expression actually made use of is, along the said highlands *which* divide those rivers." (m)

3. "The true intention of the treaty would clearly be ascertained by the following obviously plain and natural, and *nearly literal, construction* of its phrasology, namely :—It is hereby agreed and declared that the following are and shall be the boundaries of the United States, viz : from the North-west angle of Nova Scotia, viz: that angle which is formed by a line drawn due North from the source of St. Croix River to *the line of* the highlands, along the said highlands which divide," &c. (n)

4. Finally, the Agent proposes to reverse the description of the boundary. "Let then the tracing of the boundary in this quarter be made, from the North-westernmost head of Connecticut River, *along the highlands* which divide those rivers, &c. to the North-west Angle of Nova Scotia, viz: that angle which is formed by a line drawn due North from the source of St. Croix River to the highlands." (o)

In this last version, the British Agent has not interpolated new words, but besides reversing the line, he has omitted the word *said*, which identifies the highlands which divide the rivers, &c. with those to which the due North line is declared to extend.

It is not necessary to inquire whether the alterations thus suggested would answer the purpose for which they are intended. They have been adverted to, only to shew the various attempts of the British Agent, all of which consist in an actual alteration of the expressions of the treaty.

But even his ingenuity was at fault, with respect to "the words descriptive of the Eastern boundary of the United States;" and he says: "These words, taken in their *literal* and *individual signification*, would involve a construction altogether inconsistent with other parts of the treaty, *and with facts at the time within the knowledge of the framers of it*, and if the foregoing observations upon the first description of this part of the boundary, be, as they are presumed to be, correct, these words descriptive of the Eastern boundary, must, of necessity *be interpreted in a corresponding sense*."

What that intended interpretation should be, the British Agent does not state. But as those descriptive words, viz: "a line to be drawn from the source (of the River St. Croix) directly North to the aforesaid highlands which divide the rivers, &c. are susceptible of no other construction but that "literal and individual signification" to which he objects, and as he had no other object, but that of placing the termination of the due North line at another point than on the aforesaid dividing highlands, it is clear that his construction consists in striking off the obnoxious clause altogether.

The British Commissioner states the claim laid before the board, on the part of His Britannic Majesty, in the following words, viz:—"That the North-west angle of Nova Scotia should be formed by the intersection

(l) British Agent's First Memorial. Written Evidence, No. 55.

(m) British Agent's Supplementary Argument. Written Evidence, No. 55.

(n) British Agent's Reply. Written Evidence, No. 55.

(o) Written Evidence, No. 55.

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of a line drawn due North from the source of the River St. Croix, with a line running from the North-westernmost head of Connecticut River, along the highlands . . . which divide the rivers Chaudiere and De Loup, falling into the River St. Lawrence, from the rivers Androscoggin, Kennebec and Penobscot, falling into the Atlantic Ocean; *such line being continued along the highlands in that quarter, in such manner* as to leave all the sources of all the branches of the said Rivers Androscoggin, Kennebec and Penobscot, South of such line, and within the territories of the United States, until it meets the said line drawn due North from the source of the River St. Croix, at or near Mars' Hill." (p)

This is an explicit commentary on the third version of the British Agent. The line is reversed, and, where it leaves the highlands prescribed by the treaty, it is *to be continued* along other highlands which *do not divide* rivers falling into the Atlantic Ocean, from those which empty themselves into the River St. Lawrence.

The British Commissioner decides in favor of the British pretension, and sustains his decision in the following words—viz: "It is obvious that the order of description in the treaty of 1783, was reversed from the proclamation, its prototype; and hence arises the error of the agent on the part of the United States, who contends that the due North line from the source of the River St. Croix is to be extended until it arrives at Highlands which divide the Rivers," &c. &c. &c.

"But this is not the fact, the words of the treaty are,—due North from the source of the St. Croix River to the highlands, along the said highlands which divide those rivers," &c. &c. &c.

"Now what does the word 'along,' in its ordinary signification import? Certainly a *continuation* of those highlands, in which continuation will be found highlands which divide the rivers, &c. &c. &c. Indeed the word *along*, used in the treaty of 1783, is, in this instance, synonymous with the word *passing*, in the proclamation." (q)

We have not been fortunate enough to comprehend clearly this reasoning. The word *passing* is not used alone, or instead of *along*, in the proclamation: the words there, are, that the line *passes along*. According to the Commissioner, the word *along* is synonymous both with *passing* and *continuation*; which two last words are of course also synonymous: and what he would gain, by substituting the word *passing* or *passing along*, to the word *along*, is not perceived.

But, that *along*, in its ordinary signification, or in any case whatever, imports, or ever has been used in the same sense as *continuation*, cannot be seriously asserted. What the British Commissioner intends, is, under color of affixing to that word a sense which it never had, to suggest the insertion of the word *continuation*. And the article would then read "due North from the River St. Croix, to the *continuation* of the highlands, along the said *continuation of* the highlands which divide the rivers," &c.

Instead of the words "continuation of," the suggestion in the British Statement is in reality to insert the words "which connect themselves with:" so that the article would read, "along the said highlands *which connect themselves* with the highlands which divide the Rivers," &c. But care has been taken not to bring that interpolation in full view, by avoiding any such discussion of the terms of the treaty as had been hazarded by the former British Commissioner: and the argument proceeds as if the essential condition of dividing from each other the rivers therein described, in reference both to the North-west angle of Nova Scotia, and to the boundary line along the Highlands, made no part of the treaty.

(p) Written Evidence, No. 53. p. 371.

(q) Written Evidence, No. 53, p. 373, 376

But without even adverting to the unmanageable description of the Eastern boundary, ^{Terms of the Treaty.} whichever of those various readings may be selected;

Whether to interpolate somewhere the words "*such line being continued along the highlands in that quarter:*"

Or, to reverse the description and to omit the word "*said:*"

Or, to insert instead of the words "to the highlands," either "*to the line of*" or "*to the continuation of the highlands;*"

Or, to substitute to the words "highlands which divide," either "*highlands to the place where they divide,*" or "*highlands which connect themselves with highlands which divide,*" or "*highlands which in their Westwardly course divide,*" or, "*highlands which in any part of their extent divide;*"

Or, to suggest whatever other mode ingenuity may devise; it is clear, that highlands which do not divide certain specified rivers, though on the line of, in continuation of, or connected with, are not *the highlands which divide those rivers.*

With leave thus to alter in some way or another the terms of a treaty, it may be bent to any construction whatever. And it is hardly necessary to observe, that interpolations, omissions, or alterations in its expressions, are not an interpretation of a treaty, but the substitution of other provisions to those prescribed by the instrument.

The assertion that the British line does actually divide the rivers designated by the treaty, is also founded on a glaring perversion of the meaning of the term "*to divide.*"

It will be seen, by the map A, that the boundary line, claimed by Great Britain, from Mars' Hill to the sources of the Chaudiere, divides, through nearly its whole extent, the sources of the Penobscot River from those of the Southern tributary streams of the River St. John. And it is declared, in the concluding paragraph of the first branch of the British Statement, that Great Britain claims that, from Mars' Hill, "*the line of boundary of the United States be traced South of the River St. John to the Northwesternmost head of Connecticut River, at the heads of the Rivers Penobscot, Kennebec, and Androscoggin, which rivers Great Britain maintains to be those intended by the Treaty, as the rivers falling into the Atlantic Ocean, which are to be divided from those which empty themselves into the River St. Lawrence.*"

Was it by this intended to assert, that a line, which, for a distance of one hundred miles, divides the sources of the Penobscot from those of the St. John, is a line which divides the sources of the Penobscot from those of rivers which empty themselves into the River St. Lawrence?

The British Commissioner declares it also to be evident, "*that the line extending thence (from Mars' Hill) along the highlands, in a Westerly direction, described by the red line on the general map made by his Majesty's Principal Surveyor, (r) (being the same, as the red line on map A, claimed on the part of Great Britain) does divide, as directed in and by both those treaties (that of 1783 and that of Ghent,) the rivers which empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean; thus in every particular satisfying the words of the above named treaties, and corresponding,*" &c. (s)

It seems to have been intended, by that paragraph of the British Statement, and by that *dictum* of the British Commissioner, to assert, that a line along the sources of the Penobscot, in its origin at Mars' Hill, 100 miles distant from any of the rivers that empty themselves into the River St. Lawrence, and which, at its termination only, reaches the highlands in which any of those tributary rivers have their sources, does,

(r) The map here alluded to, not having been admitted to be filed by the Board of Commissioners, has not been adduced in evidence.

(s) Written Evidence, No. 53, p. 372

Terms of the Treaty. through its whole extent, actually divide the upper branches of the Penobscot from the rivers that fall into the River St. Lawrence.

The term "*to divide*" is there made synonymous with that "*to lie between*."

Whatever does divide, (or separate) must be contiguous to both the things which are to be divided, (or separated) one from the other.

A line can divide no other territories, (or surfaces,) from each other, but such as are contiguous one to the other. If not contiguous, they are divided, not by a line, but by the intervening territory (or surface.)

In this instance, the rivers which empty themselves into the River St. Lawrence are divided from the sources of the upper branches of the Penobscot, 1st. by the highlands which divide the first mentioned rivers from the Northern tributary streams of the St. John; 2dly, by the entire basin of the River St. John; 3dly, by the highlands which divide the Southern tributary streams of this river from the upper branches of the Penobscot.

These last mentioned highlands, which are those claimed by Great Britain as the boundary line, divide no other rivers from each other, but those of the Penobscot and of the St. John. They divide the rivers that fall into the Atlantic Ocean from those which empty into the River St. Lawrence, in the same manner precisely, as the Thames divides Surrey from Suffolk, and as the Rhine divides France from Poland. Yet that assertion, if it was so intended, is the only attempt which has been made, in the British Statement, to reconcile the pretension of Great Britain with the terms of the Treaty.

It has been our intention, in this section, to reduce the question to its simplest terms, by shewing that the line claimed by Great Britain, as the boundary between her dominions and those of the United States, is wholly irreconcilable with the express provisions of the treaty.

It is not deemed necessary to advert again to the impossibility, that Mars' Hill, considering its position in relation to the Western extremity of the Bay des Chaleurs, should be the North-west angle of Nova Scotia. But it is proper to repeat, that the description in the treaty, of highlands dividing certain specified rivers, applies, not only to the boundary between the United States and Great Britain, but also to that portion of the Northern boundary of Nova Scotia, which, extending Eastwardly from the summit of the angle, does, according to the treaty, form the North-west angle of Nova Scotia. It is preposterous to say, that a line described as dividing rivers from each other, may intersect the largest river in the Province, and that the bed of that river may, in any sense of the word, be deemed "highlands." And a mere inspection of Map A, or of Mitchell's Map, is sufficient to shew that no line can be drawn from Mars' Hill, in an Eastwardly or North-eastwardly direction, which will not, within less than ten miles, intersect the River St. John and sink to its level.

§ 9.

INTENTIONS OF THE FRAMERS OF THE TREATY OF 1783.

Intentions.—The terms of the treaty were too explicit to admit the supposition that they conveyed a meaning different from that intended by the negotiators. The attempt, to appeal from those terms to intentions gratuitously ascribed to those Ministers, has accordingly failed altogether.

The broad assertion, (*t*) that they intended to assign to each Power the whole of the rivers which had their mouths in their Territories, respectively, has not only been

(t) British Statement, page 10 and *passim*.

shewn to be unsupported by any proof or evidence whatever to that effect : but it has been decisively refuted by the general tenor of the treaty, through the whole of which there is a constant departure from that pretended "main object" of the negotiators.

It has likewise been conclusively shewn that they did not, in order to effect that purpose, instead of defining the boundary along the highlands in terms corresponding with that presumed intention, resort to the singular mode of describing the River St. Croix as having its mouth in the Bay of Fundy, (*u*) and of designating, in another clause, the Gulf of St. Lawrence by its specific name : there being in both instances sufficient reasons for those specific designations, which intended, where used, for a particular purpose, were wholly inapplicable to the clause in which that boundary was described, and could not affect the obvious and incontrovertible sense of the terms used in the description.

The vague and indeterminate meaning of the term "highlands," when used alone, gave an opportunity for attempting to perplex the subject. (*v*) To try to ascertain the import of a word in a particular sentence, by considering it apart from expressions which are there its inseparable adjunct, must necessarily lead to an erroneous result. But it has also been decisively shewn, that the framers of the treaty had not a "generally mountainous country" in view, and that the term "highlands," either in its general sense, or in that which has been consecrated by local usage, was the most appropriate which could have been selected, for the purpose of designating, without reference to its absolute elevation, any ground which divides rivers from each other.

The inferences attempted to be deduced, from the proposal on the part of America, to make the River St. John the boundary, from the Canadian origin of the Pic of Madawaska, and from the incongruous acts or attempts of the British Provinces, do not, it is believed, require any notice. (*w*)

There was no necessity, on the part of the United States, to resort to the intentions of the framers of the treaty. Yet they have been anxious to shew that their reliance was not exclusively on the letter of that instrument, that the expressions used in describing the boundary were not carelessly and inadvertently adopted, and that the boundary claimed by them, was that which alone could, at the time, have been intended by the parties to the treaty.

With that object in view, it was proved, in the First American Statement, that the true intention of the two Powers was, to confirm the boundaries designated in the Charter of Massachusetts' Bay, as defined on the East by the Commissions of the Governors of Nova Scotia, and as modified towards the North by the Proclamation of 1763. and by the Quebec Act of 1774.

The Charter of Massachusetts' Bay, the antecedent Public Acts of Great Britain, and the subsequent Documents, prior to the Proclamation of 1763, have been adduced principally for the purpose of shewing the coherence and connexion of the title, and that, notwithstanding some efforts made to encroach on the Chartered Boundaries of Massachusetts' Bay along the sea coast, that Colony had, from the time when Nova Scotia was separated from it till the year 1763, continued to be bounded on the East by the Western boundary of Nova Scotia, and on the North by the River St. Lawrence.

It must, at the same time, be distinctly understood, that there is no intention to discuss, if at all controverted, any abstract question of right, which may have been incidentally referred to, as making part of the history of the case.

(*u*) British Statement, page 34. Summary of Arguments, 1st Argument.

(*e*) Do. do. 5th Argument.

(*w*) Do. do. 2d, 3d, & 4th Arguments.

Whether there was a power in the King to alter the Charter, or wherever that power might be vested, it is now of no importance to examine. And, although the Charter of Massachusetts was undoubtedly the basis on which the United States negotiated, it was only necessary to prove, that the two Powers did by the treaty adopt, as the boundaries between their dominions in that quarter, those limits which, as early as the year 1763, had been designated by the Public Acts of Great Britain, and continued at the date of the treaty, to be the Western boundary of Nova Scotia and the Southern boundary of Canada.*

This fact has been so conclusively demonstrated in the First American Statement, that it is not presumed that it will be controverted.

The separate and secret article, annexed to the Provisional Articles of November, 1782, might have also been adduced, as a further proof of the adherence to the provincial limits previously established by Great Britain, which characterizes the treaty. The boundaries of West Florida had, since the Proclamation of 1763, been enlarged, as will appear by the commissions of Governors Chester and Elliot, (x) by extending its Northern limit as far North as the latitude of the mouth of the River Yazoo, from the Mississippi to the River Appalachiecola. It is agreed by the Separate Article, that that parallel of latitude should be the boundary between that Province and the United States, "in case Great Britain, at the conclusion of the present war, shall recover or be put in possession of West Florida." (y) That Province was by the definitive treaty ceded by Great Britain to Spain: its fate was uncertain in November, 1782, when the Provisional Articles were agreed on between Great Britain and the United States.

This separate article, extremely inconvenient in itself, and which must have proved particularly offensive to Spain, was acceded to with great reluctance by the American Commissioners, and, contrary to their instructions, kept secret from the French Government. The British Commissioner produced the commission of Governor Johnson, (z) extending the bounds of West Florida as above mentioned, and contended for that extent as a matter of right. And the principal reason which induced the American Commissioners to agree to it, is a complete answer to the pretended impossibility, suggested in the British Statement, that Great Britain ever could have acceded to the North-eastern Boundary as now claimed by the United States. In their letter to their Government, of July, 1783, they say: "Mr. Oswald adhered strongly to that object. . . . And among other arguments, he finally urged his being willing to yield to our demands *to the East, North, and West*, is a further reason for our gratifying him on the point in question." (a)

The silence preserved, in the British Statement, with respect to Public Acts so well known, and so immediately connected with the question, and the suggestions concerning the North-west Angle of Nova Scotia, render it however proper to repeat in substance the decisive facts already adduced, which, independent of any other consideration, prove beyond doubt the identity of the boundary lines prescribed by the above mentioned acts, with those declared and agreed on by the treaty of 1783.

By the Commissions of all the Governors of Nova Scotia, from the year 1763 to that of the 29th July, 1782, issued to John Parr, who was the Governor at the date of the Provisional Articles of Peace, of November, 1782, and of the definitive treaty of September, 1783, that Province was declared, to be bounded on the Westward, "by a line drawn from Cape Sable across the entrance *of the Bay of Fundy to the mouth*

(x) Written Evidence, No. 32.

(y) Written Evidence, No. 53.

(z) Quoted in Commission to John Elliot, Written Evidence, No. 52.

(a) Written Evidence, No. 9. (a)

of the River St. Croix, by the said river to its source, and by a line drawn due North from thence, to the Southern boundary of our Colony of Quebec; and, to the Northward, by the said boundary, so far as the Western extremity of the Bay des Chaleurs." (b) Intentions

By the Commissions of the Governors of the Province of Quebec, from 1763 to 1771, the *Southern boundary* of that Province was described as a line which, "crossing the River St. Lawrence and the Lake Champlain in forty-five degrees of northern latitude, *passes along the highlands which divide the rivers that empty themselves into the said River St. Lawrence from those which fall into the sea, and also along the North Coast of the Bay des Chaleurs.*" And in the Commissions of Governor Carleton, of 27th December, 1774, and of that granted, on the 18th of September, 1777, to Frederick Haldimand, who was still Governor in November, 1782, and September, 1783, the said Province is, in conformity with the Quebec Act of 1774, declared to be "*bounded on the South, by a line from the Bay of Chaleurs along the highlands which divide the rivers that empty themselves into the River St. Lawrence from those which fall into the sea, to a point in 45 degrees in Northern latitude, on the Eastern bank of the River Connecticut.*" (c)

The North-west angle of Nova Scotia had thus been determined in express terms, for the twenty next preceding years, and continued to be, at the date of the treaty of peace, at the intersection of a line drawn due North from the source of the River St. Croix, and of the dividing highlands abovementioned.

The said angle is accordingly in the treaty of 1783 referred to, as a point already determined: it is, as such, made the point of departure in the description of the boundaries of the United States: and the two lines by which it is declared to be formed are those which, by those previous public acts of Great Britain, had been respectively prescribed, and then continued to be the Western boundary of Nova Scotia and the Southern boundary of the Province of Quebec.

That identity of the North-west angle of Nova Scotia, as previously established by the British Government, with the North-west angle described by the treaty of 1783, has heretofore been contended for, in the most strenuous manner, by Great Britain. Referring, in proof, to the several extracts from the arguments of the British Agent, before the Commissioners under the 5th Article of the Treaty of 1794, (d) we will only quote his concluding words. "If we now compare this angle with the North-west angle of Nova Scotia described in the treaty of Peace, can it be believed. that so exact a coincidence could have happened between the actual, real boundaries of the Province of Nova Scotia, and the boundaries of it described in this treaty, if the latter had not been dictated and regulated by the former?"

The British Commissioner under the late commission, though attempting to draw another inference, acknowledges also, that the words "highlands, which divide," &c. used in the treaty, were taken from the Proclamation of 1763, and that the proclamation was the prototype of the treaty. (e)

The Southern boundary of the Province of Quebec was, at the date of the treaty, according to the previous public acts of Great Britain, the Northern boundary both of Nova Scotia and of New England. In defining the boundary between Great Britain and the United States, the North-west angle of Nova Scotia became of course the point of departure along the highlands, instead of the Western extremity of the Bay des

(b) Written Evidence, No. 15.

(c) Written Evidence, No. 21.

(d) Written Evidence, No. 35.

(e) Written Evidence, No. 53, page 375

ingulous. Chaleurs; and the correction in the Westerly termination of that line on the River Connecticut has already been adverted to. In other respects, the line along the highlands is described in the same terms, in all the previous public acts of Great Britain, and in the treaty, with no other alteration than the substitution of the words "Atlantic Ocean," to the word "Sea."

The term "Atlantic Ocean" is more appropriate in this case than that of "Sea," but, as applied to the American shores, both have the same meaning.

It has been demonstrated, by reference to various public acts emanating from Great Britain, that the term "Atlantic Ocean," in its general and usual acceptation, embraces, as well as that "Sea," the Bay of Fundy and the Gulf of St. Lawrence; and this is the only important point in the discussion.

It has been shewn that that term, in the Commissions of the Governors of the British Provinces, subsequent to 1783, and the term "Sea," in the similar documents of a date prior to that year, are used, and must necessarily be understood, in the same sense.

Those two terms are used as synonymous, by the British Agent, in a passage of the argument which has just now been referred to, viz: rivers "which fall into the *Sea* or *Atlantic Ocean*;" (f) by the Lieutenant Governor of New Brunswick, (T. Carleton) who, when referring to the Quebec Act, where the word *Sea* is used, uses the words *Atlantic Ocean*; (g) and in the Proclamation of 1763 itself, as has already been shewn in the First American Statement. (h)

It may, with great propriety, be added, that admitting the highlands described in the Proclamation of 1763, and the Quebec Act of 1774 to be identic with those now claimed by the United States, had it been the intention of the treaty of 1783 to substitute other highlands, one hundred miles further South, and not dividing from any other rivers those that fall into the River St. Lawrence, it is preposterous to suppose that the mode resorted to, for effecting that purpose, would have been simply to substitute the term "Atlantic Ocean" to the term "Sea."

From this identity of the Northern boundary line of the United States, with the Southern boundary of the Province of Quebec, important inferences are deduced, which leave no doubt as to the true intentions of the parties.

The line prescribed by the treaty, was a confirmation of that established in 1763, at which time the natural object must have been, to assign to the new Province that portion of territory, till then claimed by Great Britain, as part of the provinces of Massachusetts' Bay and Nova Scotia, which lies on the South side of the River St. Lawrence, and is watered by its tributary streams. The object could not have been, at that time, when Massachusetts was part of the British dominions, to secure, without passing through it, a direct communication between Quebec and Nova Scotia. And this again affords a peremptory answer to the observation in the British Statement, that it is incredible that Great Britain should have "consented to *place* the United States in entire possession of the only practicable line of communication between her two Provinces."

As the Bay of Fundy is not mentioned in either the Proclamation of 1763, or the Quebec Act of 1774, there is not even a pretence, on the ground assumed on the part of Great Britain, that the River St. John was, in those public acts, excepted from the rivers falling into the sea, intended to be divided by the highlands from those which fall into the River St. Lawrence. And such an exception, therefore, could not have been intended by the framers of the treaty of 1783, who did not define a new line.

(f) Written Evidence, No. 35, page 271.

(g) Written Evidence, No. 59, and British Evidence, No. 32

h) Written Evidence, No. 17, page 167.

but only confirmed and established the boundary already designated by the Proclamation and the Quebec Act.

The mention made of the Bay des Chaleurs in the public acts of 1763 and 1774, and of its Western extremity, in the Commissions of the Governors of Nova Scotia, as being the Eastern extremity of the Southern boundary of the Province of Quebec, determines beyond doubt the position and course of the dividing highlands, which form that boundary. And the situation of the Western extremity of the Bay des Chaleurs, as laid down in Mitchell's Map, determines also that of the North-west angle of Nova Scotia on the North side of the River St. John, since it renders it mathematically impossible that that angle should be at any point, South of that river, of the line drawn due North from the source of the River St. Croix.

The description of the dividing highlands is, in those acts of the British Government, as well as in the treaty of 1783, expressed in terms so clear, that, at a time when there was no motive for distorting their natural meaning, there was no doubt on the subject; and they uniformly received that construction of which alone they are susceptible.

In all the maps, accordingly, published in Great Britain, between the years 1763 and 1783, on which the Southern boundary of the Province of Quebec is laid down, the North-west angle of Nova Scotia is placed at a point on the North line from the source of the River St. Croix, North of the River St. John; and the Southern boundary of that Province, from that point to the Connecticut River (*i*) divides the rivers that fall into the River St. Lawrence from the tributary streams of the River St. John, and from the other rivers that fall into the Atlantic Ocean.

Several observations in the British Statement, and those in No. 44 of the Appendix, render it necessary to give some further explanations of the inferences which may be drawn from that universal understanding, with respect to the intentions of the framers of the treaty of 1783.

Since Mitchell's Map is declared, by the convention of 1827, and must be held as conclusive evidence of the topography of the country, as understood by the negotiators in 1783, other maps, though of a subsequent date, cannot be adduced as evidence of the intentions of those negotiators, in opposition to the topographical features of the country as laid down in that map; and those in question are not brought forward, even for the purpose of illustrating any feature whatever of the topography of the country.

Greenleaf's Statistical Account and map, and Pownall's Topographical Description, have been resorted to, on the part of Great Britain, for the express purpose of throwing light on an important topographical feature, viz: "the intended highlands." Hale's map has also been offered, to elucidate the position of a certain grant of land, in order thereby to prove that, in the year 1789, the Lake branch of the River Connecticut was acknowledged by the State of New Hampshire to be "the Connecticut River."

It is for a purpose similar to this last instance that the above mentioned maps have been produced. The boundary of the Province of Quebec, defined for the first time in 1763, could not be delineated on a map published in 1755. A boundary line, designated by a public act, is not a topographical feature of the country; and the maps in question are adduced only in order to shew what had been, between the years 1763 and 1783, the general understanding respecting the position, in reference to the rivers as they are laid down in Mitchell's Map, of a boundary established subsequent to the date of that map. For that purpose they are clearly admissible, in conformity with the convention of 1827; and it will not be denied, that, in the total absence of any

(i) There may be, in some of those maps, occasional and trifling discrepancies, evidently errors of the copier or engraver, which do not affect their general scope.

evidence whatever to the contrary, they are a conclusive proof of the universal understanding on that point, at least of the geographers and of the American negotiators, who, it is proved, did consult some of those maps.

The inferences to be thence deduced may, if she thinks it proper, be controverted on the part of Great Britain. They are submitted as necessarily flowing from the undeniable fact, that all the above mentioned maps coincide with respect to the position of the North-west angle of Nova Scotia, and of the Southern boundary of the Province of Quebec.

It has been asserted in the First American Statement, and it is now repeated, 1st, that it is morally impossible that the British Government and negotiators should have been unacquainted with all the maps of America published during the twenty next preceding years, and ignorant of their universal coincidence on the subject of the boundary in question; 2dly, that thus knowing the manner in which the boundary defined by the Proclamation of 1763 was understood, it is equally impossible to suppose that they should, in the description of the boundary contemplated by the treaty, have adopted precisely the same terms which had been used in the Proclamation and the Quebec Act, had it been their intention to designate a boundary essentially different from that so universally understood as having been intended by those public acts of Great Britain.

But if, after having adduced maps in support of the British claim, it has been found expedient, on discovering the uniform tenor of those produced by the United States, peremptorily to declare that "Great Britain altogether denies the authority of maps as proof in a case of contested limits," (k) she cannot reject the authority of that of Mitchell, by which the framers of the treaty are acknowledged, by the convention of 1827, to have regulated their joint and official proceedings. This was the only map, published in England prior to the treaty, which had an official character. It appears, from the certificate on the face of it, to have been undertaken with the approbation and at the request of the Board of Trade, and to have been chiefly composed from official documents in that office: for which reason, it was probably selected in preference to others of more modern date. (l) It is not in any respect, now that the question respecting the true St. Croix has been decided, more favorable to the American claim than any other. But, if it be recollected that it has been asserted, in the British Statement, "that the extreme obscurity and confusion," &c. in relation to the boundaries, "added to the very *imperfect topographical knowledge then had* of the interior of the country, . . . rendered it *absolutely impossible* for the framers of the treaty of 1783" to lay down "the several points and lines of the boundary with" sufficient accuracy: the vast advantage will immediately be perceived of having at least one map, mutually acknowledged to be conclusive evidence of the topography of the country, as it was understood by the framers of the treaty, and by which, comparing it with the terms of that instrument, the true intentions of those ministers may be ascertained; and to this map alone, independent of any subsequently published, and even setting aside every other evidence that may elucidate the subject, we will now appeal, as the proper test of those intentions.

The boundaries of Nova Scotia and of New England are, on that map, extended to the North as far as the River St. Lawrence; and a line drawn due North to that river, from the source of the River St. Croix, is distinctly delineated as the boundary between Nova Scotia and New England, under which last denomination are included the old Province of Maine, and Sagadahoe, or the territory lying between that Province and Nova Scotia. This has already been adduced as one of the proofs

(k) British Appendix, No. 44.

(l) It is in proof that the map was, for the purposes of the treaty, brought from England by the Commissioners — Written Evidence, No. 23.

of the manner in which the chartered boundaries of Massachusetts' Bay, were, prior to the cession of Canada, understood by Great Britain; of her total disregard of the French claims South of the St. Lawrence, and of the consequent irrelevancy of the Canadian origin of the Fief of Madawaska to any question of boundary between her and the United States.

With respect to the intentions of the framers of the treaty, this map has also enabled us to shew:

1st. That it was known to them that the due North line must, within a short distance from the source of the River St. Croix, cross branches of the River St. John, and leave within the United States the territory West of the said line, which is watered by those branches.

2dly. That the territory which the United States would have gained, if the River St. John had been the boundary line of the two nations, is, according to that map, larger than the territory which they now claim beyond that river.

3dly. That, by the highlands, at which the said due North line was to terminate, they could not have meant any hill, considerable elevation, or mountain, situated South of the River St. John; since there is no trace on the map, on or near that line, of any hill or mountain; and they could not, by any other means within their reach, have known whether any would be found on or near the said North line. South of the River St. John.

4thly. That they could not, by the said highlands, at which the due North line must terminate, have meant a "generally mountainous country;" since no such country is laid down on the map along or within forty miles East or West of the said line; whilst a mountainous country, commencing forty miles West of it, and extending thence Westwardly, is distinctly delineated; and, if it had been intended that the line drawn from the source of the River St. Croix should meet that country, it must necessarily have been defined in the treaty, as a West, and not as a due North line.

But the important fact indisputably established by Mitchell's Map is, that the framers of the treaty had a knowledge of the topography of the country, amply sufficient, whatever their intentions might be with respect to the boundary, to enable them to describe it with great correctness, in reference to the rivers.

The great River St. John, which is the principal feature of the interior and least explored portion of the country, is laid down by Mitchell with considerable accuracy, both as to course and distance, from the place where it is intersected by the due North line, to its Northernmost and Westernmost sources. And the boundaries respectively claimed by the two parties, if traced on his, would not materially differ from those delineated on Map A.

It was, therefore, perfectly well known to the negotiators, that the River St. John penetrated one hundred and twenty miles West of the due North line, and that, for the whole of that distance, the territory watered by that river and its several branches, lay between the sources of the tributary streams of the River St. Lawrence, and those of the Rivers Penobscot and Kennebec; so as to render it absolutely impossible for any line, drawn from any point of the due North line South of the River St. John, to divide for that distance, from any other river whatever, any river emptying itself into the River St. Lawrence.

As it was likewise manifest, by Mitchell's Map, and, therefore, also well known to the framers of the treaty, that any such line drawn, from any point of the due North line, towards the sources of the River Connecticut, must necessarily, through three-fifths of its course, either intersect branches of the River St. John, or divide them at their sources from some other rivers; it is, in the first place, altogether incomprehensible, that, in describing such line, that is to say, the boundary extending from the ter-

intention.

mination of the due North line, along the highlands which divide certain specified rivers, to the source of the Connecticut River; those ministers should have omitted altogether to mention, include, or allude, in any manner, to that river which formed the most conspicuous feature of the country, through or along which that boundary line must pass. For, in the description of that boundary, as defined by the treaty, no other rivers are mentioned, or alluded to, but those which empty themselves into the River St. Lawrence, and those which fall into the Atlantic Ocean. The framers of the treaty were informed by Mitchell's Map, that the River St. John did not empty itself into the River St. Lawrence; and, according to the British hypothesis, it is not in the treaty, and it was not intended by the negotiators, as one of those included under the description of "Rivers that fall into the Atlantic Ocean."

But it is asserted by Great Britain, that it was the intention of the parties to the treaty of 1783, that the point designated in it, as the North-west angle of Nova Scotia; that is to say, the point at which the line drawn due North from the source of the River St. Croix meets the intended highlands and terminates, should be found to the South of the River St. John.

And it was manifest by Mitchell's Map, and therefore perfectly well known to the negotiators, that no point or part of the due North line aforesaid, South of the River St. John, did or could divide, from each other, any rivers whatever, but some branches of the said River St. John.

It is, therefore, contended, on the part of Great Britain, that, intending to designate, as the North-west angle of Nova Scotia, and as the termination of the due North line which forms the Eastern boundary of the United States, some point known to them to divide, from each other, no other rivers than some branches of a river, which falls neither into the River St. Lawrence, nor (according to the hypothesis,) into the Atlantic Ocean; the framers of the treaty did deliberately describe that Eastern boundary, as a line drawn from the source of the River St. Croix, "directly North, to the aforesaid *highlands* which divide the rivers that fall into the Atlantic Ocean from those which fall into the River St. Lawrence;" thus defining the termination of that line, or North-west angle of Nova Scotia, by a designation known to them not to apply to the point which they intended to define.

It is again asserted by Great Britain, that the highlands which actually divide the rivers specified by the treaty, and which alone were contemplated as such by the negotiators, are only those which, from the North-westernmost source of the Penobscot, to the North-westernmost source of the Connecticut River, divide the Rivers Penobscot, Kennebec, and Androscoggin, from the Rivers Chaudiere and St. Francis, which empty themselves into the St. Lawrence; and that the boundary line, intended and described by the treaty, does, from the abovementioned point South of the River St. John, on the due North line, extend South of the said river, along the heads of the River Penobscot, to its North-westernmost source, as it is delineated on the Map A.

But it was manifest by Mitchell's Map, and therefore perfectly well known to the negotiators, that the nearest source of the River Chaudiere, was about 120 miles distant, in a straight line, and in a nearly Westerly course, from any point of the due North line; that, through that whole extent, the line would not divide, from any other river whatever, any river that empties itself into the River St. Lawrence; and that it could not, through that whole extent, divide any other rivers from each other, but the Penobscot and the Kennebec from the tributary streams of the River St. John; that is to say, rivers falling into the Atlantic Ocean, from a river falling (according to the hypothesis) into the Bay of Fundy.

It is, therefore, contended on the part of Great Britain, that, intending to designate as the boundary line, from the North-west angle of Nova Scotia to the North-westernmost head of Connecticut River, a line which, passing South of the River St. John,

was known to them to divide, for three-fifths of its extent, no other rivers from each other, than rivers falling into the Atlantic Ocean. from a river falling into the Bay of Fundy; and knowing that the said boundary line would not, at a shorter distance than 120 miles from its commencement, reach the highlands which actually divide the rivers that fall into the Atlantic Ocean from those which empty themselves into the River St. Lawrence; the framers of the treaty, intending also, as expressly stated, that their description of the boundaries should be such as that all disputes which might arise in future on the subject of the same, might be prevented: did deliberately, and after much contention on the subject, ultimately agree to define the boundary thus intended to be established, in the following words, viz:

“From the North-west angle of Nova Scotia, viz: that angle which is formed by a line drawn due North from the source of St. Croix River to the highlands, along the said highlands which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, to the North-westernmost head of Connecticut River.”

That is to say, that, in defining the boundary in question, those ministers described a line which, to their knowledge, divided, for three-fifths of its extent, rivers falling into the Atlantic Ocean from *a river falling into the Bay of Fundy*, as a line dividing rivers falling into the Atlantic Ocean from *rivers emptying themselves into the River St. Lawrence*; thus adopting a description which, to their knowledge, was applicable only to 80 miles out of the 200, along which the said boundary does, and was known by them to extend; and which, to their knowledge, was entirely inapplicable to the 120 miles next to the place of beginning, or to three-fifths of the whole length of that boundary.

This incredible misapplication of language, or indeed gross absurdity, is ascribed to eminent and practical statesmen, some of them not less remarkable for the precision and perspicuity of their style, than for the clearness of their conceptions; and in a case where the description, being corrected in relation to the River Connecticut, affords an incontestable proof of the strict attention they paid to the terms used in describing that part of the boundary.

What renders the supposition, that those ministers expressed themselves in terms so contradictory of the intentions gratuitously ascribed to them, still more outrageous, is, that there would not have been the slightest difficulty, with Mitchell's Map before them, in defining with the utmost precision, if so intended, the boundary line as now contended for by Great Britain.

Had the intention been, as is affirmed, to assign to Great Britain the whole of the basin of the River St. John, there would not have been any occasion, either to refer to the North-west angle of Nova Scotia, or that any part of the boundary should have been a line drawn due North from the source of the River St. Croix. In that case, the boundary would, by any ordinary conveyancer in possession of Mitchell's Map, and of the intentions of the parties, have been described in the following words, or in other as explicit, and of the same import, viz:

From the source of the River St. Croix, along the Highlands which divide the rivers that empty themselves either into the River St. John, or into the River St. Lawrence, from those which fall into the Atlantic Ocean, West of the mouth of the River St. Croix, to the North-westernmost head of Connecticut River, East by a line to be drawn along the middle of the River St. Croix, from its mouth in the Bay of Fundy to its source.

Had it been intended, though for what object, with the intentions ascribed to the negotiators, (*m*) is altogether unintelligible, that a due North line drawn from the source

(*m*) Particularly if they had in view that height of land of Governor Pownall in which the River Passamaquada has its source.

of the River St. Croix, should form a part of the boundary, a slight alteration in the phraseology would, with equal facility, have effected that purpose. There would have been no more difficulty in thus describing the boundary, from Mitchell's Map, than the British Agent under the late commission found in delineating it on that very map. (*u*)

All the arguments which have been adduced on the part of the United States, in opposition to the British line, are equally applicable to any other boundary that may be suggested, other than that claimed by them.

Here too, since it is manifest by Mitchell's Map, and since therefore it was known to the framers of the treaty that it was impossible, that any boundary line whatever, extending Westwardly from any point whatever of the line drawn due North from the source of the River St. Croix, should divide rivers falling into the River St. Lawrence from rivers falling into the Atlantic Ocean, unless the River St. John was included amongst these; it necessarily follows, that it is impossible that those ministers should not have held the River St. John to be one of the rivers falling into the Atlantic Ocean, which they intended to be divided by the boundary, from those which empty themselves into the River St. Lawrence. In which case, it is also manifest by Mitchell's Map, that they could not have intended any other point on the due North line, as the North-west angle of Nova Scotia, than the intersection of the said line with that dividing ground, in which, according to the map, the rivers which fall into the River St. Lawrence have their sources; and therefore, that no other highlands could have been intended by the framers of the treaty, as the boundary between the dominions of the two Powers, than those which are claimed, as such, by the United States.

II.

North-westernmost head of Connecticut River.

§10.

North-westernmost head of Connecticut River.

The United States claim, as the North-westernmost head of Connecticut River intended by the treaty, that source which lies North-west of any other source of any of the branches of the river, without regard to the specific names, or respective magnitude of those branches.

The designation of "North-westernmost head" necessarily implies a selection between two or more sources. And the words "head of *Connecticut River*," and "thence downalong the middle of *that river*," necessarily mean, "head of and along the middle of *the branch* of that river," the source of which would be declared to be the North-westernmost head of Connecticut River. The designation was correct, since, guided by Mitchell's Map, the framers of the treaty must have considered any of its nameless upper branches, as equally entitled to the appellation of Connecticut River. And it has already been observed, that the principle is admitted by Great Britain, since she claims as the North-westernmost head intended by the treaty, the source of a nameless rivulet, *along the middle of which*, from its source to its junction with the other waters of the river, the boundary is claimed to extend, although it is not pretended that the rivulet is known by the name of Connecticut River.

But Great Britain makes two exceptions to the principle; and maintains, 1st. That the North-westernmost head intended by the treaty must be the head of a branch, that unites with the other waters of the River Connecticut, above the highest point where it assumes the distinguishing title of Connecticut, or Main Connecticut: and 2dly. that

(*u*) Topographical Evidence—Surveys—See the two several extracts from Mitchell's Map, presented by the British Agent, No. 29, American, and K. British.

Hall's Stream must also be excluded, on account of its uniting itself with the main river, at a point below the place which was, at the date of the treaty, considered as the intersection of the said main river, and of the 45th degree of north latitude. North-westernmost head of Connecticut River.

Even admitting all the facts assumed by Great Britain, there does not appear to be any solid reason for those exceptions.

The term "North-westernmost" necessarily implies a selection between at least the respective sources of two distinct branches. One of these might have received the exclusive designation of "Main Connecticut;" and the source of the other branch, if found to be the North-westernmost of the two, must necessarily have been declared to be that intended by the treaty. In that case, the boundary declared to be from that head along the middle of the river, would have extended along the middle of a branch that united with the other below the highest point, where this was known by the distinguishing title of "Main Connecticut." And since the word "river," clearly means there, as admitted by Great Britain, a certain branch of the river, it is not perceived on what ground it is pretended that the boundary line cannot extend along that branch to the 45th degree of north latitude.

With respect to the last objection, it will only be added, that if the boundary from Connecticut River, to the River St. Lawrence, shall be determined to be along the 45th parallel of North latitude, as ascertained by the late observations, Hall's Stream will be found to unite itself with the main river above, and not below the intersection of that parallel with the river: and that it will then, in that respect, be free of any objection.

The obvious meaning of the word "river," as used in that clause of the treaty, sufficiently refutes the assertion, "that no stream which joins the Connecticut River, below any point where the river is known by that distinctive appellation, can with any propriety, or *consistently with geographical practice*, be assumed to be the River Connecticut." But it is proper to observe that the geographical practice alluded to, is not that which prevails in America.

In Europe, every tributary stream, or branch, of every river, has been for ages almost universally known by a distinctive name. It is admitted that, although every source of any such branch is in fact one of the sources of that portion of the main river which flows below the mouth of such branch, the sources of a tributary stream, which is known by a distinct name, would not, in common language, be considered as the sources of the main river. It would be improper to designate the sources of the Marne, by the name of "Northern sources of the Seine." And if the framers of the treaty had defined a boundary in Europe, they would undoubtedly, in reference to the branch or source of any river, have used, instead of such an expression as "North-westernmost head," the specific and distinctive name by which the branch was known.

But, in America, the upper branches of a river, when they are first discovered and explored, are most commonly distinguished from each other, only by appellations indicative of their course: neither of them being exclusively designated as the main river. Of this, numerous instances may be given, even in relation to rivers of considerable magnitude, such as the West Branch of Susquehanna, the North Branch, and the South Branch of the Potomac, &c. all of which are to this day known by no other names. (*nn*) The reports of the Surveyors under the late commission, and the Map A, afford also several instances, with respect to branches which had till then been unexplored: such as the North-west, the West, and the South-west branches of the St. John, and the East, the West, and the North-west branches of the Penobscot, neither branch of which last River is called the "Main Penobscot."

(nn) Pownall, pages 26 and 38.

North-western-
most head of Con-
necticut River.

It may be confidently asserted, that, so far at least as relates to the yet uninhabited parts of the country, and the geography of which is but imperfectly known, the words "sources" and "heads," as applied to the upper waters of a river, are, in America, universally understood to embrace the sources of all its branches.

Thus, in a passage already quoted from Governor Pownall's Topographical Description; "All the Heads of Kenebaüg, Penobskaüg, and Passum-aquäda River, are on the Height of the Land running East-north-east;" the sources of all the tributary streams of the Penobscot and of the other rivers therein mentioned, are evidently included under the denomination of "All the Heads," &c.

The preceding observations may be illustrated by a supposed case, taken from Map A.

It has already been observed, that the various upper branches of the River St. John, have no other distinctive names but those of West, North-west, South-west branch, &c. whilst one of them is exclusively distinguished by the name of "South or Main Branch of the River St. John," and, in some of the Reports of the Surveyors, is called the "Main St. John." (o)

Supposing that the State of Maine should divide the territory on the River St. John, into two districts, and should define the boundary, as "beginning at the South-westernmost source of the River St. John, thence down along the middle of that River, to 46° 25' of North latitude, thence along the said parallel of latitude," &c. is it not clear that, although the South-west unites with the South Branch of the river, below the point where this is known by the name of Main St. John, and below the point where it is intersected by the parallel of latitude above mentioned, the South-westernmost head would nevertheless be understood to mean, the source of the South-west Branch, at the point marked L. on the American Transcript of Map A?

In all the preceding observations, the facts assumed on the part of Great Britain have been taken for granted. Her claim rests on the double assertion, that the Lake branch of the Connecticut River was, at the date of the treaty of 1783, known by the distinctive name of "Main Connecticut;" and that this fact was known to the framers of the Treaty. These are questions of fact at issue: the United States are not bound to prove a negative; the burden of the proof falls exclusively on Great Britain, and the evidence which has been produced, so far from sustaining the assertions, proves the reverse.

The grant to Dartmouth College, by the State of New Hampshire, would only prove, that the distinctive appellation contended for was in use in the year 1789, or about six years after the treaty.

The only other evidence adduced on the part of Great Britain, is contained in the report of Dr. Tiarks, and although hearsay, ex-parte, and not taken on oath, will nevertheless be admitted to its full extent, but not beyond that extent.

Mr. Tiarks was informed by all the persons that he had an opportunity of consulting, that the river into which Indian Stream discharges itself, (the Lake branch,) is commonly called Connecticut River, or sometimes the Main Connecticut River, to distinguish it from the other smaller streams, which have all particular well known names; and that this river (the Lake branch) is never designated by the inhabitants, by the name of the Eastern branch of the Connecticut River, or distinguished by any name but those stated above. Mr. Tiarks collected that information in the month of October, 1820; and he refers particularly to Jeremiah Eames, Captain Eames, and John Hughes, inhabitants of New Hampshire, who, as he says, have known that river and hunted on it more than thirty years ago, and always lived in the vicinity. (p)

(o) C. Campbell's and F. Odell's Reports. British Evidence, No. 10, pages 94 and 111.

(p) Written Evidence, No. 50, and British Appendix, page 170.

Thus all the information that Mr. Tiarks could collect, in support of the British pretension, was, that the Lake Branch was called Connecticut, or the Main Connecticut River, as early as the year 1790, that is to say, seven years subsequent to the date of the treaty of 1783.

North western,
most head of Con-
necticut River.

The information was received from those persons who, as hunters, are the earliest explorers of the unsettled parts of the United States. And what renders Mr. Tiarks' account decisive, to prove that the Lake Branch had not been explored by the Americans, or at least was not called the Main Connecticut River, prior to the date to which he refers, (1790) is that he had no difficulty in finding, and that he states the name of Hall's Stream to be derived from a hunter of the name of Enoch Hall, that it had been generally known at least ever since the year 1780 by this name, and that a gentleman had informed him that he heard the name in the year 1772.

This last information was perfectly correct. In a letter from John Collins, the Surveyor appointed on the part of the Province of Quebec, to survey the division line between that Province and that of New York, dated "Boundary on the Connecticut, October 1st, 1772," he informs the Surveyor General of New York, that the line terminated (on Connecticut River) two miles and five-eighths of a mile above the mouth of Hall's Brook, ninety miles from Lake Champlain. (g)

Dr. Tiarks' silence, with respect to the time when the other streams, viz: Indian Stream and Perry's Stream, first received their "particular well known names," is a decisive proof that these names are of a later origin than the date of the Treaty. They are all English, and could only have been given by American settlers.

Governor Pownall, who wrote in 1775, states the highest settlement up the river, to be four miles above the Amanuseag, and about thirty miles South of the 45th parallel of North latitude. (r) The war with Great Britain, and, above all, the Indian hostilities, necessarily prevented the progress of settlement, till after the restoration of peace; and it is only subsequent to that epoch, that the upper branches of the river could have been settled, explored, or distinguished, by specific names.

There is not a single map, published prior to the Treaty of 1783, in which those branches are laid down correctly. There is not a single one in which any trace can be found of the Connecticut Lakes, which particularly characterize the branch pretended to have been known at that time by the name of "Main Connecticut River."

C. R. Sauthier, one of the Surveyors who surveyed the boundary line between the Provinces of Quebec and New York, published, in the year 1779, a large map of the Province of New York, dedicated to Governor Tryon. In that map, which is compiled from authentic documents, the Northern boundary of the Province is laid down in exact conformity with the official survey of the line. (s) It will appear evident, on an inspection of the map, that the river had not been explored North of that boundary; and that the stream there represented as the principal upper branch, is Indian Stream. It is not improbable that this name was derived from the branch being the usual Indian path to the River St. Lawrence, and that, on that account, its position was better known than that of any of the other branches. Another remarkable circumstance is, that the branch itself is, on the map, designated by the name of "Head of Connecticut River." If this map, therefore, was consulted, either by Congress in the year 1779, or by the framers of the Treaty of 1783, the inference seems unavoidable, that it was thence that that expression was borrowed, and that no branch, East of Indian Stream, was the head of Connecticut River contemplated in the instructions of Congress of August, 1779, or in the treaty.

The result of this inquiry, therefore, is, not only that no proof has been adduced.

(g) Written Evidence, No. 26, page 218.

(r) British Evidence, No. 40, page 294.

(s) Topographical Evidence. Surveys, No. 50, and Engraved Map, No. 56.

South-western-
most head of Con-
necticut River.

that the Lake branch, or any other, was, at the time of the Treaty of 1783, exclusively distinguished by the name of Connecticut River, but that there is a strong probability, that another than the Lake branch was contemplated as the North-westernmost head of Connecticut River.

The framers of the treaty could not, of course, have been acquainted with any distinctive name which was not in use, even in that part of the country, at the date of the treaty. But it must be observed, that the special objection to Hall's Stream rests on the supposition, that they knew that the main branch of the Connecticut River was already then distinguished by that name, at a place more than two miles above the mouth of that stream. And it is extremely improbable, that they should have been acquainted with that particular fact, the only proof of which was to be found in Sauthier's Map, (t) and in the unpublished Reports of the Surveyors, who had surveyed the boundary line, along the 45th parallel of North latitude, between the Provinces of New York and Quebec.

If reference is had to Mitchell's Map, as the proper test of the intentions of the framers of the treaty, it will be seen, that it only exhibits two main upper branches of the Connecticut, without any distinctive name; neither of which, either from its size, or from any other indication on the map, can be considered as exclusively entitled to the designation of "the Connecticut River;" and that the negotiators, therefore, must have intended, as the North-westernmost head of that river, that source which would be found to lie North-west of any other, without any reference whatever to either of the branches, to the exclusion of the other.

There has never been any doubt on the question in America. The State of New Hampshire had the boundary surveyed in the year 1789, in conformity with the treaty; (u) and it is laid down accordingly in Carrigan's Map, published in 1816, (v) as well as in that of Hale, of a subsequent date; both of which have been adduced as evidence on the part of Great Britain. It could not indeed have been expected, that either the source of the *main* branch of the river, as such, or the *North-easternmost* head would ever be claimed as being the *North-westernmost* head of Connecticut River intended by the treaty.

III.

BOUNDARY LINE FROM THE CONNECTICUT RIVER TO THE RIVER ST. LAWRENCE.

§ 11.

Boundary Line
from the Connecti-
cut to the St. Johns.
Lawrence.

The British Statement, on this branch of difference, calls only for two observa-

1. The Astronomer of the United States thought it his duty to suggest every scientific consideration that appeared connected with the case: And their Agent, under the late commission, performed his, in submitting to the board all the observations which had thus been communicated to him.

The American Commissioner, for the reasons stated in his report, did not think it proper to express, at that time, any opinion on the questions relating to the *surveys* of any part of the boundary. The Government of the United States, without inquiring for what purposes and in what cases the figure of the earth renders a correction of the observed latitude necessary, concurs in the opinion, that the "geocentric latitude" having never been admitted in geography, the observed latitude, according to

(t) Engraved Maps, No. 56. In this Map, Hall's is called Elm Stream

(u) Written Evidence, No. 52.

(v) Topographical Evidence. Surveys, No. 28

which the latitude of places has been universally laid down in every map, and inserted in every usual table heretofore published, can alone be appealed to in a question relating to the construction of a treaty.

2. There will be no practical difficulty in ascertaining the ancient boundary line if confirmed. It was surveyed as correctly as any of the other boundaries between the different States, and as can generally be done with the compass through a forest. It is known though its whole extent, having been for near sixty years the acknowledged boundary between the Province, or State of New York, and Canada; and the line which separates, from each other, the grants of land made in that quarter by the two Governments, from the Connecticut to the River St. Lawrence.

All which is respectfully submitted by the Undersigned, Agents of the United States in the negotiation, and upon the umpirage relating to the North-eastern boundary of the said States.

ALBERT GALLATIN,
WILLIAM PITT PREBLE

NOTES TO THE STATEMENT.

A.

MADAWASKA FIEF.

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ment.
Madawaska Fief.

It has been stated, that the Madawaska Fief appears much larger on the British Transcript of Map A, than it really is. This error has its origin in the terms of the first concession of the Fief, in the year 1683; (British Evidence, No. 13,) in which the Grant is for three leagues, along each of the two banks of the River Madawaska, near the River St. John, together with the lake called Cecemiscouata, and two leagues depth inland: whence it has been concluded, that there were also two leagues depth granted, around the Lake Temiscouata. But the Fief was sold, by virtue of a judgment in 1755, (British Evidence, No. 17.) And according to the sale, the adjudication was for the Fief of Madawaska, as containing three leagues in front, on each side of the river of the same name, by two leagues in depth, together with the whole extent of the Lake Cetemiscouata. In the Act of Faith and Homage, by P. Claverie, for the said Fief, in 1756, it is described as being on the river of the same name, situated near the River St. John, together with the Lake Cecemiscouata, adjacent thereto, (ensemble le Lac Cecemiskouta y joignant,) and as containing three leagues front, on each side of the said river of the same name, by two leagues in depth, not being able to state the extent of the said Lake Cecemiskouta. (British Evidence, No. 18.) The same expressions had been already used, in the *Arveu et Dénombrement* of the year 1723. (British Evidence, No. 16.) Again, in the receipt for the domains and dues of the year 1756, the Fief is described as being on the river of the same name, together with the Lake Cecemiskouta, adjacent to the said Fief of Madawaska, and containing, &c. as in No. 18. (British Evidence, No. 19.) Finally, the Fief is described precisely in the same manner, in the Deed of Sale to James Murray, by the Representatives of P. Claverie, of 20th July, 1763. (British Evidence, No. 20.) Whatever then may have been the intent of the original concession of 1683, it is clear, that neither P. Claverie, nor James Murray, nor the present owner who claims under him, can claim more than was sold to the said Claverie, by the judicial sale of 1755, and by his representatives to J. Murray; that is to say, three leagues front by two leagues depth, on each side of the River Madawaska, and the Lake Temiscouata, adjacent thereto, but without any land around the said lake.

B.

GOVERNOR POWNALL'S INFORMATION.

Governor Pownall.

Speaking of the height of land between the Rivers Kennebec and Chaudiere (page 17), he declares himself to be totally uninformed "of the nature and course of this highland in these parts;" meaning clearly of the highland beyond that specified point, which he designates with great precision.

The source of the Kennebec, with which he was acquainted, he states (page 22) to be in "the height of the land in North latitude 45° 20';" and the route which he had investigated to be that of Arnold and his people. The map A will shew that the branch of Kennebec to which he alludes, is the "Dead River," the source of which is in the above mentioned latitude, and opposite to that branch of the Chaudiere, now called "Arnold River," from

his march. With the main north branch of the Kennebec, Governor Pownall was unacquainted: speaking of it, he says, "The North Branch is said (I speak not here from the same degree of authority) to arise in and issue from a *little pond*," &c. And he does not even mention the largest and most remarkable lake of the whole country, viz: the Moose Head, or Moose Lake. His information, therefore, did not extend north of the Dead River, which, through its whole course, as will be seen by Map A, is more than 50 miles south of any part of the British line.

In relation to the Penobscot, he describes it correctly as high up as themouth of the Passadumkug River, (page 91.) With the same precision he states, the fork of two Branches, two miles and a half above the south-east branch, being that called on Map A, the Piscataquis River. With respect to the main or north branch, he only alludes to the Madawamkeag Indian town, as being six miles higher up, and speaks of the river as coming to this place, south-east about 16 miles from some ponds, whence it takes its source. This must be the Matawamkeg River: and his information went no farther. He was entirely unacquainted with even the existence of the Main Penobscot, which extends thence, near ninety miles to its north-westernmost source, and with its main east branch, which runs northerly near 50 miles.

C.

SURVEYS UNDER THE LATE COMMISSION.

The line, drawn due north from the source of the River St. Croix, was surveyed during the years 1817 and 1818: viz: the first 99 miles as far as the River Ristigonche, in 1817, by the British Surveyor, Mr. Bouchette, and the American Surveyor, Mr. Johnson; and the remainder to its termination on Beaver Stream, a tributary of the River St. Lawrence, 146 miles from its commencement, in 1818, by Mr. Johnson and the British Surveyor, Mr. Odell. (Reports—British Appendix, No. 10, pages 51, 54, 72, 77. American Appendix, No. 56, pages 404, 405, 406. Surveys, Nos. 1, 2, 3, 4, and 27.)

The northern extremity of the due north line, was again examined in 1820, by the British Astronomer, Dr. Tiarks, and the American Surveyor, Mr. Burnham. (Reports—British Appendix, pages 121 and 135.) And Mars' Hill, on the line, was again visited in 1819, by Mr. Odell, and by the American Surveyor, Mr. Partridge. (Reports—British Appendix, pages 88 and 96. American Appendix, pages 410 and 413. Survey, No. 5.)

Mr. Johnson visited, also, in 1818, Green Mountain, west of the due north line, and the Temisconata Portage; which last place was also examined by Mr. Partridge, in 1819. (Reports—British Appendix, pages 77 and 95. American Appendix, pages 406 and 413. Surveys, Nos. 3 and 5.)

In the year 1819, Mr. Partridge and Mr. Odell ascended the River Ristook as high as its forks, and returned without having accomplished their object, which was to penetrate to the British line. (Reports—British Appendix, pages 97 and 89. American Appendix, page 410. Surveys, Nos. 6 and 7.)

In the same year, the American Surveyor, Mr. Hunter, ascended the River Aliguash to its source, crossed the British line at the Umbazucksus Portage, ascended the north-west branch of the Penobscot, from the Chesumcook Lake to its source, and descended the River to its confluence with the Matawamkeag. (Reports—British Appendix, page 106. American Appendix, page 414. Surveys, Nos. 8, 9, and 10.)

In the same year, the British Surveyor, Mr. Campbell, from the Schoodic proceeded to the Matawamkeag, thence, some distance up the Penobscot, and visited Mount Cathadin. (Reports—British Appendix, page 90. American Appendix, page 411.) Mr. Odell, and the American Surveyor, Mr. Loring, visited the same mountain, in 1820, and, proceeding up the Penobscot, crossed the British line at the Umbazucksus Portage, but went no further than the Aphmoogene Lake, on the River Aliguash. The same portage was again visited, the same year, by Mr. Campbell, who, thence, descended the Aliguash to its mouth. (Reports—British Appendix, pages 113, 146, and 119. American Appendix, pages 416, 423, and 417. No Survey but that of Mr. Loring, Nos. 16 and 17.)

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sion

In 1820, the American Surveyor, Mr. Hunter, and the British Surveyor, Mr. Loss, ascended the River St. John to the sources of its west branch, and within ten miles of the source of its main south branch: when ascending a small south-west branch to its source, they crossed the British line to the Penobscot, by a portage, situated six miles east of the point L, on the American Transcript of Map A, where the conflicting lines meet. (Reports—British Appendix, pages 144 and 124. American Appendix, pages 421 and 422. Surveys, Nos. 19 and 20.)

The Metjarmette Portage, where the two conflicting lines meet, was surveyed the same year, by Mr. Burnham, and the British Surveyor, Mr. Carlile. (Reports—British Appendix, pages 139 and 134. American Appendix, pages 419 and 420. Surveys, Nos. 25 and 26.)

In the same year, Mr. Campbell explored a portion of the highlands, acknowledged as such by both parties, several of the upper waters, and particularly the south-western branch of the River Penobscot. (Reports—British Appendix, pages 93 and 116. American Appendix, pages 412 and 417. Surveys, Campbell's Sketch, No. 18.) And Mr. Odell ascended the Penobscot, to the sources of its northern and western branches, and crossing the British line, at the same portage which had been examined by Messrs. Hunter and Loss, descended the Main St. John, to where it crosses the due north line. (Reports—British Appendix, page 115. American Appendix, page 416.)

On the American line, the Tuladi and Green River Portages were examined the same year, by Messrs. Burnham and Tiarks, and that of the River Ouelle by Messrs. Burnham and Carlile. (Reports—British Appendix, pages 136, 122, and 134. American Appendix, pages 418, and 420. Surveys, Nos. 13, 14, 15, 23, and 24.)

All the other Surveyors' Reports and Surveys relate to the highlands, from the sources of the Kennebec to those of the Connecticut, and to the upper branches of the last mentioned river.

The line, drawn due north from the source of the River St. Croix, rises gradually in its northerly course. At 40 miles from the said source, it passes along the eastern basis of Mars' Hill, where its elevation above the surface of the River St. John, six miles distant, is stated at 523 feet.

According to the section of Mars' Hill, given by Mr. Partridge, its two peaks, about one mile west of the due north line, are 1,363 and 1,504 feet, respectively, above the River St. John. The two American Surveyors represent it as an insulated eminence, or totally disconnected with any other range of heights. Mr. Johnson adds, that the adjacent country is low and swampy, though considerably elevated above the waters of the St. John. The British Surveyor, Mr. Odell, is silent as to the immediately adjacent grounds to the west of the hill, except that he speaks of *indescribable* (*v*) ridges, which, viewed from Mars' Hill, appear to rise, generally, from the foot of that hill, towards the south-west.

About 60 miles north of Mars' Hill, the north line, after having crossed the River St. John, reaches the highlands which divide the waters of that river from those of the Ristigouche. Mr. Johnson says, that this ridge, which is called Sugar Mountain, is evidently the highest land on the line from the source of the St. Croix to that place. This is confirmed by Mr. Bouchette's vertical section, by which it appears that this mountain (north of the River St. John) is more than 500 feet higher than the highest peak of Mars' Hill, or more than 2,000 feet above the surface of the River St. John.

At the distance of 132 miles from the source of the River St. Croix, the north line reaches the summit of a ridge which forms the north bank of the Grande Fourche of the River Ristigouche. This, according to Mr. Odell, has the appearance of being the highest point intersected by the line north of the last mentioned highland: and, according to Mr. Johnson, it is the highest of any, either north or south of it, in the whole line.

Proceeding north, the land continues high, but descending moderately about 12 miles, to the point which divides the waters of the Ristigouche from those which fall into the

(*v*) Yet he has made a ground plan of those very ridges, which he saw from Mars' Hill, and which he mentions, more, and calls them, *Indescribable*. See his Map—Surveys, No. 7.

River St. Lawrence, and which is claimed by the United States as the North-west Angle <sup>Notes to the State-
ment.</sup> of Nova Scotia.

It must be observed that, at that time, it was hoped by the British Agents, that there <sup>Surveys under
the late Commis-
sion.</sup> would be found, from Mars' Hill to the sources of the Chaudiere, a continuous chain of high and conspicuous mountains. And, on that account, Mr. Odell considered the table land, which extends from the summit of the banks of the Grande Fourche (at 132 miles) to that of Beaver Creek, as not entitled to the designation of "Highlands."

But, making every due allowance for the slight differences between the statements of the two surveyors, it appears clearly that the dividing ridge, at about 144 miles from the River St. Croix, the (point A on map A.) is somewhat, but not much, lower than the ridge at 132 miles, presumed to be the highest spot on the whole line; and that its elevation may therefore be estimated, so far as a survey, without an accompanying section of the line, may be relied upon, at about 2,000 feet above the level of the sea.

At a distance of about 70 miles, in a course South of West, is found the Temiscouata Portage, the road across which intersects the dividing Highlands in several places. It has been travelled over by several of the Surveyors, and Mr. Partridge, who made a series of barometrical and thermometrical observations, from high water mark at St. Andre across to Lake Temiscouata, gives the following table of altitudes above the tide water of the St. Lawrence at St. Andre, viz:

| | | | | | | |
|------------------|--------------------------|---|---|---|---|------|
| Grand Portage, { | Grande Fourche Mountain, | - | - | - | - | 1336 |
| | Parichs Mountain | - | - | - | - | 1309 |
| | Biar Mountain | - | - | - | - | 1320 |
| | | - | - | - | - | |

Of the *mountainous character* of that part of the country, in the sense attached to that term in the British Statement, there can be no doubt; and it will be perceived that the several ridges crossed by the road have specific names, and are all called "mountains."

But the United States had no motive to ascertain either the elevation or character of the highlands claimed on their part as the boundary; and the American Surveyors appear, generally, to have been more intent in discovering the greatest depressions of that ridge, than in seeking for proofs of its general elevation; since, in almost every instance, they selected for objects of investigation the well known Indian portages or carrying places, which must be, and are invariably, those along the ridge, that separates from each other the sources of streams flowing in different directions, which are both the shortest and the least elevated.

The character of two of the lowest of those gaps or depressions, the Tuladi and Green River Portages, has already been given in the text, and is described at large in Dr. Tiarks' report. But, since it is declared in the British Statement that "It is of course not pretended, on the part of Great Britain, that, in order to support the character which she assigns to the term highlands, those highlands should present an absolutely unbroken and continuous ridge, without the intervention of valley or swamp," we will ask, in what respect the highlands, from the North-west angle of Nova Scotia claimed by the United States, to the Western extremity of the Temiscouata Portage, differ from "highlands" of the character which Great Britain assigns to that term?

With respect to the British line, along which, from Mars' Hill to the Metjarquette Portage, where it meets the American line, two places only have been examined, that called the Umbazucksus or Aliguash Portage is about 75 miles West of Mars' Hill, in a straight line.

Mr. Odell describes the Umbazucksus as a small stream, which takes its rise in a pond of the same name. He states that, "From Umbazucksus Pond, there is a portage of two miles to Pongum Gamook or Mud Lake, the first St. John water: this lake is about three miles long, and nearly one in breadth, but very shoal, with a soft muddy bottom, and covered with pond lilies; the land immediately around the lake swampy." But both he and Mr. Campbell are silent as to the nature of the ground across the portage. Mr. Hunter describes it as nearly level and marshy, and Mr. Loring states that the highest point is 52 feet above the surface of the Chesumcook Lake.

The other place, which is only six miles east of the Metjarquette Portage, is that which was surveyed by Mr. Hunter and Mr. Loss. It is described by Mr. Odell as being all bog

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sion.

and swamp, except about half a mile, where the ground is a little more elevated; and the description by both Mr. Hunter and Mr. Loss is the same in substance.

The Metjarmette, which is an Indian portage, is at the Western extremity of the British line, and common to both lines, being the place where the South-west branch of the River St. John, the North-westernmost branch of the Penobscot, and the Metjarmette, one of the tributary streams of the River Chaudiere, (which falls into the River St. Lawrence,) have their sources. There is a mountain about three miles East of the portage; but the portage itself is of the same character with those of the Rivers Tuladi and Ouelle.

The River Metjarmette, Mr. Carile says, commences in a swamp: the source of one of the branches of the Penobscot is in the same swamp: one half mile East there is a division of the waters of the St. John and Penobscot Rivers, in some marshy ground.—(British Appendix, page 134, and American Appendix, page 430.)

Between that portage and Mars' Hill, no other place but the two above mentioned portages has been surveyed along the British line: nor did any of the surveyors visit a single one of the mountains delineated on that line in the British Transcript of the map A.

The country between Mars' Hill and the Umbazucksus Portage was approached only in two places—Mount Cathadin on the South, and a hill on the bank of the River Ristook on the North; both about 25 miles distant from the British line.

If we trace, on map A, the country within the following bounds, viz: from the River St. Croix West to the Penobscot; up this river, through the Chesumcook Lake, to the Umbazucksus Portage; thence, through the Aphmogene Lake, down the Aliguash River, to its mouth, and down the River St. John to the place where it is intersected by the due North line; and thence South, along the said line, to the source of the River St. Croix: the boundaries thus described designate the explorations made by the surveyors, within which, with the exception of the partial survey of the Ristook River and the ascent of Mount Katahdin, not a single spot appears from the surveys to have been explored or visited by any of the Surveyors under the late commission.

There is not, amongst all their surveys, any other evidence of the mountains within that tract of country, which are laid down in the British Transcript of map A, than Mr. Campbell's Sketch (No. 18) and the views taken by Mr. Odell from Mars' Hill and from Park's Place, which is situated near, and East of, the due North line, and about 25 miles South of Mars' Hill.

Mr. Odell might, if he had thought it proper, have laid before the Commissioners a sketch of the perspective view of the hills, which appeared to him to terminate the horizon, as seen from any of his stations, in the same manner as navigators annex to their charts views of the land as seen from some point, or as the views or appearances of mountains, or of any landscape, are inserted in books of travels. But this, it is believed, the first time that it has been attempted to convert the distant appearance of either ridges or detached hills, seen from one or two points, into an actual survey, or ground plan, of an extensive tract of country, such as has been incorporated by Mr. Odell in his real survey of a single river, (of the Ristook, No. 7.)

This tract of country not having been at all explored, was left a blank in map A, and it has not been filled in the American Transcript; though, judging from analogy, it may be considered as certain, that it is intersected throughout by branches of the Penobscot and of the Ristook, the sources of which are not probably, in any instance, farther than one mile apart. And, as these were necessarily concealed from Mr. Odell's view by the intervening hills and forest, he has omitted them altogether, giving to the whole the fallacious appearance of an extensive highland, with scattered peaks.

It is not to this moment understood, on what *fact*, which could possibly have sustained that plan or map, it was intended to examine Mr. Odell on oath. He could only have stated what was already in proof, viz: that he did *believe* that the hills which he had not surveyed or visited, but only seen at a distance, lay in the manner represented on that plan; and the peremptory objection would have still remained unanswered, that the position assigned by him to those hills on the *plan*, was not a fact, but only an inference or conjecture, the correctness of which it was impossible for any human being to affirm.

Mr. Campbell's sketch embraces both a certain portion of country, lying on some of the upper Western branches of the Penobscot, which he had explored, and the whole of the country adjacent to the British line, as far East as the due North line, which he had not visited. His sketch of this last portion, which is by far the greater part of the whole, is evidently entitled to no credit whatever. His view appears to have been taken from a station near one of the sources of the Penobscot, at least one hundred miles distant from Mars' Hill, which he thought he could distinguish by its two peaks, the elevation of which does not differ two hundred feet one from the other. If he was not mistaken, the absolute height of Mars' Hill being but about 1,500 feet above the level of the sea, and its distance from the observer one hundred miles, the whole of the intervening country, along the British line, through nearly its whole extent, must be comparatively a valley.

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It is to be regretted that, instead of a rough, and as will appear by map A, a very incorrect sketch, Mr. Campbell had not, as the other Surveyors, annexed to his Reports a correct plan of the ground which he had actually explored.

It appears that, having reached the height of land in which the Kennebec takes its source, he proceeded about 22 miles along the highlands, acknowledged as such by both parties, having crossed the Drover's Road (the "Image" on map A) at four miles, and found at eleven miles the sources of a branch of the Penobscot, and of one of the Chaudiere, less than one mile apart. So strong was the erroneous impression under which the British Agent and Surveyors acted, that, forgetting that the division of waters was the essential condition attached to the highlands described by the treaty, and ever in search of elevated ridges in the direction of the British line, Mr. Campbell being then ten or twelve miles South of the point where the conflicting lines meet, left the true highlands, acknowledged as such by both parties, the moment he found they became less elevated. Their acknowledged continuation to the Metjarmette Portage, is designated on his Sketch as "low land;" and he considered as "the main" a broken Easterly ridge, on account of its favorable direction and mountainous character. He pursued this and describes it as follows, viz:

"At about 22 miles the *main ridge* assumed a different appearance and shape, but *continues* nearly the same course. Instead of a regular ridge as heretofore, running straight, there is now a succession of high mountains and ridges, some of them two and three miles in length, lying East-north-east and West-south-west, and some of them East and West, and a number of detached hills and mountains on either side, at two, four, and even six miles distance from the main ones; among which are ponds and small lakes, with outlets or streams, some running to the North and others to the South, taking their rise in the neighboring hills, and running through the intermediate valleys: at the same time a North-east course, by magnet, intersects most of the highest peaks."

That this succession of high mountains and ridges lay South of the British line, is proved beyond doubt. For after having pursued it in an East-north-east direction about 15 miles, (35 to 40 from his place of beginning,) and having ascended a branch of the Penobscot, he followed it down stream about eight miles, till he "came to the main branch of the Penobscot, running South-west to South-east: and, at about one and a half miles further, runs East between two hard wood hills, forming part of the *main chain or North-east ridge*." (British Appendix, page 94. American Appendix, page 413.)

West of the Umbazooksus Portage, the Western branch of the Penobscot was explored by Mr. Campbell, to its source, for what purpose is not perceived, and the main North or North-west branch appears also to have been explored to its source by Mr. Odell, though he makes no mention of the Metjarmette Portage, nor of any other point on the British line, but the portage examined by Messrs. Hunter and Loss, which he crossed on his return down the St. John.

He does not appear to have ascended two Northerly tributary streams of the West branch of the Penobscot, viz: the Black River and Cheseboe, both of which head opposite the sources of two Southern branches of the St. John, although both were within his reach, and apparently not exceeding ten miles in length. He nevertheless mentions what he calls the "Guaspempsistuc Mountains," which he saw from three different places, as lying

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late Commission.

between the head of the Cheseboc and the main South branch of the St. John. For the reasons already stated, it is impossible that he could have ascertained their true position; and Mr. Campbell, alluding certainly to the Cheseboc, (British Appendix, page 118; American Appendix, page 417,) states from hearsay information, that the portage between its source, and that of the St. John, is through a heath bog, surrounded by part of the same "main ridge" that he had before traced. Besides this, there is on the British Transcript of Map A, on the portage between the source of the Black River and the opposite South-erly branch of the St. John, a range of hills called Quacungamooksis Mountains, the authority for which has not been discovered in the reports of the Surveyors.

In addition to what has been mentioned in the text, respecting the character of the highlands between the sources of the Kennebec and those of the Connecticut, it may be added that, according to Dr. Tiarks' Survey of the upper branches of the last mentioned river, (No. 12,) there is no apparent difference between the character of that height of land, and that of the portages on the American line which he had examined; the ridges which he has delineated being parallel to the branches of the Connecticut, instead of running between their sources and those of the tributary streams of the St. Lawrence.

It is not intended by any thing that precedes, either to admit or to deny the existence of mountains or elevations in the vicinity of the British line. It is only intended to affirm, that the evidence adduced in that respect is wholly insufficient. And it must be repeated, that, although the United States cannot *acknowledge as true* an assertion which is not proved, they may *admit*, without its affecting in any degree their right to the contested territory, that the country through which the British line passes, is more elevated or is better entitled than the highlands designated by the treaty, to the character of a "generally mountainous country," in the sense ascribed to those terms in the British Statement.

It may, at the same time, be observed, that the situation of the highest mountains in that district of country, is entirely different from that of the dividing highlands claimed by either Great Britain or the United States. A succession of insulated mountains or irregular ridges of a greater elevation than any other, either in New England, or in the United States, East of the Stony Mountains, may be traced from the "White Hills," within sixty miles of the sea coast, extending in a North-east direction to "Mount Kathadin," situated between the two main branches of the Penobscot. The elevation of the White Hills above the level of the sea, (v) is ascertained, and exceeds seven thousand; that of Mount Kathadin, is presumed to be near five thousand feet. The intervening very elevated and mountainous country, is intersected by the Penobscot, the Kennebec and their numerous tributary streams. A spur, known by the name of Kathadin Clump, extends Northwardly perhaps to some much lower mountains North of the sources of the Ristook, which Mr. Greenleaf intended to include within his "mountainous part of Maine." The highest ascertained point on any of the highlands claimed by either party, is the place called "Image" on Map A, and is hardly more than 2000 feet above the level of the sea.

D.

MR. GALLATIN'S LETTER OF DECEMBER 25, 1824.

In that part of Mr. Gallatin's confidential letter, which relates to the North-eastern Boundary, his object was to communicate the impression under which he was, that the Government of Great Britain did not intend seriously to assert its pretended claim, but had advanced it for the purpose of procuring with more facility an exchange of territory. Aware that the United States could not voluntarily cede or exchange (unless found to be, according to the original treaty of 1783, within the dominions of a Foreign Power,) any part of a State, he tried to remove the objection to an exchange, by asserting that the district in question, was not within the bounds of the State of Massachusetts, (now Maine.)

Mr. Gallatin's Letter,
of 25th Decr.
1824

It has been shewn, in the most conclusive manner, in the First American Statement, Notes to the State ment. that he was completely mistaken in that respect. But the manner in which the subject had been first presented, and the subsequent observations of the British Commissioners, justified his belief, that they had no faith in the alleged right of Great Britain, and were simply desirous of obtaining a cession for an equivalent. Mr. Gallatin's Letter of 25th Dec 1814.

An apology might perhaps be due, for having ascribed to the British Government an unsound argument, which, it is hardly necessary to observe, was nothing more than the untenable assertion, that the Gulf of St. Lawrence is not a part of the Atlantic Ocean. Mr. Gallatin had then no other knowledge of a question for the first time presented as doubtful, than what was derived from the treaty, and from maps in common use. After the most thorough investigation, he must say, that the preposterous reasoning, to which he thought Great Britain would perhaps be obliged to resort, does not appear to him much worse than any of the arguments, which have been since alleged to sustain her extraordinary claim.

E.

ENGRAVED MAPS.

Nos. 1 to 39, are principally intended to shew the understanding which prevailed prior to the date of the treaty of 1783, respecting the boundary lines of the British Provinces, as laid down by the Proclamation of 1763, and other public acts of Great Britain, and respecting the boundaries of the United States, as described by the treaty. Engraved Maps

Nos. 40, 45, 51, 52, 54, 55, 56, and 57, are quoted in the American Statement.

No. 42, is the supplement of No. 40. Having adduced in evidence Mr. Bouchette's Map, No. 40, it was not deemed proper to omit his other maps, Nos. 41 and 43; in the first of which the British line is laid down along Mr. Holland's presumed highlands, and the two ridges or highlands respectively claimed by both parties, are also delineated. In No. 43, the due North line from the source of the River St. Croix, extends to the highlands claimed by the United States.

No. 44, is principally intended to shew the subdivisions of the Province of New Brunswick, and its reputed boundaries, which do not differ materially from those laid down in map No. 45. The boundary line between the United States and Lower Canada, is laid down along Mr. Holland's presumed highlands.

Nos. 46 and 47, of the years 1755 and 1775, are evidently the same map, without any alteration as to the boundaries. No. 46 has been inserted to corroborate the facts proved by Mitchell's Map, that in 1755 the boundaries of Nova Scotia and of New England were understood by Great Britain to extend to the River St. Lawrence, and that the course and extent of the Western and Northern branches of the River St. John, were generally known. No. 47 has been inserted only not to omit any map bearing that date; but it proves nothing, as the boundaries prescribed by the Proclamation of 1763, are not laid down in it.

No. 48, published in 1760, corroborates the manner in which the boundaries of Nova Scotia and New England were understood at that time, and also, that the terms "land's height" and "highlands," were then used in that part of the country as synonymous.

Nos. 49 and 50, illustrate what has been stated respecting the line which is presumed to divide the River from the Gulf of St. Lawrence. No. 50 also shews, that the Western extremity of Bay des Chaleurs, or entrance of the River Ristigouche, is only ten miles from the dividing highlands, there called "Albany Ridge," or "Notre Dame Mountains."

No. 53, is that of the Middle British Colonies, annexed to, and illustrating Governor Pownall's Topographical Description, quoted in their Statements by both parties.

In map No. 54, quoted in the Statement for another purpose, will be found "Highland County," so called, as it would seem, on account of the high land in which rivers have their sources, which flow in three different directions, viz: East, to the Scioto; South, to the Ohio; and West, to the Little Miami.

F.

ADOLPHUS'S HISTORY.

For what purpose Adolphus's History has been produced, unless it was in order to inflict on the officers of the American Government the penalty of reading the work, is altogether unintelligible. The only paragraphs of the Chapter inserted in the British Appendix, which relate to America, are the following :

"The general impatience for peace in England was founded on a despair of success in the principal object of the war, the reduction of America, and a conviction that the whole force of the nation was insufficient to resist the career of the enemy in other quarters. Success would have given a new impulse to popular energy, and frustrated the long labors of an almost successful opposition ; but fortune declared against Lord North, and the hasty combination of heterogeneous parties, and their vigorous and persevering assaults on the Cabinet, impeded every measure for preventing, and sanctioned the proposition for conceding, the Independence of America."

"After the surrender of Lord Cornwallis, the attainment of this object by force appeared no more certain than at any previous period. The resources of America were exhausted, the long interruption of commerce produced a lamentable want of all necessaries, a want felt from the highest to the lowest classes throughout the Colonies. No art or coercion could give circulation to the paper currency ; and not only the friends of Great Britain, but the warmest adherents of America, considered the maintenance of the Army for another year, and still more the establishment of Independency, as utterly impossible, and hardly desirable.* Sir Henry Clinton himself, after the surrender of Lord Cornwallis, forwarded an assurance to Administration, that with a reinforcement of ten thousand men, he would be responsible for the conquest of America ;† but before this offer could be made, the Ministers, who alone could be expected to give it effect, were shaken ; a new system was adopted, active hostilities were no more to be pursued, and Sir Henry Clinton being allowed to retire, was replaced by Sir Guy Carleton."

Those passages are a fair specimen of the information, impartiality, and intellect of the author.

It was after the surrender of Lord Cornwallis, when the only difficulty in maintaining the Army arose from a conviction that the contest was at an end, and any further effort unnecessary, that the warmest adherents of America considered, as Mr. Adolphus asserts, the establishment of Independency, *as utterly impossible, and hardly desirable*. His authority for that assertion is that of an unfortunate American, who was compelled to banish himself from his own country. And he has no other than what must have truly been very *private information*, for the singular offer which he ascribes to a cautious General, whom his own experience could not have rendered very sanguine of success.

We protest against any attempt that may be made to adduce in any shape Mr. Adolphus's History, as competent evidence. There is no fact relating to the contest or negotiations of Great Britain with America, alluded to in that work, of which authentic evidence might not have been found in the Archives of the British Government, or been obtained, according to the Convention of 1827, from the Government of the United States.

* "Silas Dean's intercepted letters."

† "From private information."

APPENDIX

TO

THE TWO STATEMENTS

ON THE PART OF

THE UNITED STATES,

RESPECTING

THE DISPUTED POINTS OF BOUNDARY

BETWEEN

THE UNITED STATES AND GREAT BRITAIN:

REFERRED TO

HIS MAJESTY, THE KING OF THE NETHERLANDS,

FOR HIS DECISION THEREON.



WRITTEN AND PRINTED EVIDENCE ADDUCED ON THE PART OF THE
UNITED STATES

TOPOGRAPHICAL EVIDENCE

ANNEXED

TO THE FIRST STATEMENT.

- A. Map A, annexed to the Convention of 29th September, 1827.
- B. Mitchell's Map of North America, annexed to the said Convention.
- C. American Transcript of Map A.
- D. Atlas of the Surveys, &c. annexed to the Report of the American Commissioner, under the 5th Article of the Treaty of Ghent, collated with the British Atlas, with the notes of discrepancies, viz:
 1. Mr. Johnson's Survey of the line north from the St. Croix, in 1817.
 2. Col. Bouchette's Survey of the same line, 1817.
 3. Mr. Johnson's further Survey of the north line and adjacent country, in 1818.
 4. Mr. Odell's further Survey of the north line.
 5. Capt. Partridge's section of the country from Point Levi to Hallowell, Maine, in 1819.
 - of different heights through the Grand Portage.
 - of Madawaska and St. John rivers.
 - of Mars' Hill.
 6. Survey of the Restook section of the same, and of Mars' Hill.
 7. Mr. Odell's Survey of the Restook, with a Sketch of the Country as viewed from Mars' Hill, and the vicinity of the Houlton Plantation.
 8. Mr. Hunter's Survey of the Aliguash River.
 9. of the Penobscot, first part.
 10. of the Penobscot, second part.
 11. Mr. Burnham's Survey of the branches of Connecticut River.
 12. Dr. Tiarks' Survey of Connecticut River, and its tributary streams.
 13. Mr. Burnham's Survey of Meemkeswee and Green rivers, and Beaver Stream.
 14. of Tuladie River and Grand Portage.
 15. Dr. Tiarks' Survey of Tuladie and Green rivers.
 16. Mr. Loring's Survey of Penobscot River.
 17. of Moose River.
 18. Mr. Campbell's Sketch of the height of land annexed to Mr. Odell's report of the Survey of 1819.
 19. Mr. Hunter's Survey of the River St. John.
 20. Mr. Loss' Survey of the River St. John.
 21. Mr. Partridge's Survey of the Chaudiere, the source of the Dead River, and the east branch of the Connecticut.
 22. Mr. Carile's Survey of the head waters of Chaudiere and Kennebec rivers.
 23. Mr. Burnham's Survey of the River Ouelle, and of the source of the Black River.
 24. Mr. Carile's Survey of the same rivers.
 25. Mr. Burnham's Survey of the sources of the Metjarmette, Penobscot, and St. John rivers.
 26. Mr. Carile's Survey of the same sources.
 27. Col. Bouchette's barometrical section of the line north from the St. Croix.
 28. Extract from Carrigan's Map of New Hampshire.
 - Mitchell's Map of Connecticut River.
 - Col. Bouchette concerning the parallel line.
 29. Extract from Mitchell's Map, as first filed by the British Agent.
 30. Plan of the former Survey of the latitude of forty-five degrees north, in 1774.

Not referred to in U. Arguments.

B. Engraved Maps produced by the United States, viz.

| No. | |
|-----|---|
| 1. | T. Kitchin's British Dominions in North America, &c. Engraved for Dodsley's Annual Register, of - - - - - 1765 |
| 2. | T. Kitchin's British Dominions in North America, &c. Engraved for Capt. John Knox's History of the War in America. London, - - - - - 1769 |
| 3. | British Empire in North America, &c. Annexed to Wynne's History of the British Empire, &c. London, - - - - - 1770 |
| 4. | J. Palairer's North America, with improvements, &c. By L. Delarochette. London, - - - - - 1765 |
| 5. | Ridge's British Dominions in North America, &c. Annexed to a Complete History of the late War, &c. Dublin, - - - - - 1766 |
| 6. | Palairer's North and South America, by the American Traveller. Annexed to "The American Traveller," &c. London, - - - - - 1769 |
| 7. | North America and West Indies, with the opposite coasts, &c. [Jeffreys' Atlas,] London, - - - - - 1775 |
| 8. | North America, improved from Danville, with divisions by P. Bell. Engraved by R. W. Seale, London, - - - - - 1771 |
| 9. | P. Bell's British Dominions in North America, &c. 1772. Annexed to "History of British Dominions in North America, &c. in fourteen books." London, - 1772 |
| 10. | S. Dunn's British Empire in North America. London, - - - - - 1774 |
| 11. | Danville's North America, improved with English Surveys, &c. London, - 1775 |
| 12. | E. Bowen, and J. Gibson's North America, &c. London, - - - - - 1775 |
| 13. | Sayer and Bennett's Province of Quebec, &c. London, - - - - - 1776 |
| 14. | Seat of War in the Northern Colonies, &c. Annexed to the American Military Pocket Atlas. London, - - - - - 1776 |
| 15. | North America, &c. corrected from the materials of Gov. Pownall, M. P. London, 1777 |
| 16. | Continent of America, &c. corrected from the materials of Gov. Pownall, London, - - - - - 1777 |
| 17. | W. Faden's British Colonies in North America, - - - - - 1777 |
| 18. | W. Faden's North America, from the latest discoveries, 1778. Engraved for "Carver's Travels," London, - - - - - 1778 & 1781 |
| 19. | Sayer and Bennett's United States of America, with the British Possessions, &c. London, - - - - - 1783 |
| 20. | Bew's North America, &c. Engraved for the Political Magazine. London, - 1783 |
| 21. | J. Wallis' United States of North America. Engraved for the Political Magazine. London, - - - - - 1783 |
| 22. | J. Cary's United States of America, &c. London, - - - - - 1783 |
| 23. | W. Faden's United States of North America, with the British and Spanish territories, &c. - - - - - 1783 |
| 24. | S. Dunn's United States of N. America, with the British Dominions, &c. London, 1783 |
| 25. | Bowles' Map of North America, and West Indies, &c. London, Bowles and Carver. |
| 26. | Bowles' Pocket Map of the United States of America, British Possessions, &c. London, - - - - - 1784 |
| 27. | Albert and Lotter's North America, &c. - - - - - 1784 |
| 28. | Briou de la Tour's Etats Unis d'Amérique, &c. Paris, - - - - - 1784 |
| 29. | J. Cary's North America, &c. according to the preliminary articles of Peace, &c. collected from the materials of Gov. Pownall. London, - - - - - 1783 |
| 30. | Same Map, London, - - - - - 1794 |
| 31. | Whole Continent of America, &c. corrected from the materials of Gov. Pownall. Laurie and Whittle, London, - - - - - 1794 |
| 32. | R. Wilkinson's North America, &c. London, - - - - - 1794 |
| 33. | R. Wilkinson's United States of America, &c. London, - - - - - 1794 |

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| No. | | | |
| 34. | L. S. Delarochette's North America and West Indies. London, | - | - 1795 |
| 35. | Laurie and Whittle's America, divided into North and South. London, | - | - 1800 |
| 36. | Osgood Carleton's District of Maine, &c. Engraved for "Judge Sullivan's History of the District of Maine." Boston, | - | - 1795 |
| 37. | D. F. Soltzmann's Maine. Hamburg, Carl Ernst Boln. | - | - 1798 |
| 38. | Moses Greenleaf's State of Maine, &c. | - | - 1822 |
| 39. | British Colonies and United States of North America. Engraved by J. Lodge, for "Anderson's British America," | - | - 1814 |
| 40. | J. Bouchette's Lower Canada, &c. London, | - | - 1815 |
| 41. | Upper and Lower Canada. London, | - | - 1815 |
| 42. | District of Gaspé. London, | - | - 1815 |
| 43. | Route from Halifax to River du Loup, on the St. Lawrence. London, | - | - 1815 |
| 44. | J. Wyld's New Brunswick and Nova Scotia. London, | - | - 1825 |
| 45. | British Possessions in North America, compiled from documents in the Colonial Department; to accompany the report of the Emigration Committee, ordered by the House of Commons to be printed, 29th June, | - | - 1827 |
| 46. | T. Jeffery's Nova Scotia, &c. London, | - | - 1755 |
| 47. | same Map, | - | - 1775 |
| 48. | Canada and north part of Louisiana. London, | - | - 1760 |
| 49. | Chart of the River St. Lawrence, &c. London, | - | - 1775 |
| 50. | Sayer and Bennett's Chart of the Gulf of St. Lawrence, London, | - | - 1775 |
| 51. | W. Brassier's Lake Champlain, &c. 1762. London, Sayer and Bennett. | - | - 1776 |
| 52. | J. Geddes' Map and Profile of the Champlain Canal, &c. | - | - 1825 |
| 53. | Lewis Evans' Middle British Colonies in North America, improved and extended by T. Pownall, M. P. &c. Annexed to his "Topographical Description." London, | - | - 1776 |
| 54. | H. S. Tanner's Ohio and Indiana. | - | - 1827 |
| 55. | Major Holland's Provinces of New York, New Jersey, &c. corrected from Pownall's materials. London, | - | - 1776 |
| 56. | C. J. Santhier's Province of New York, &c. London, | - | - 1779 |
| 57. | S. Holland's Province of New Hampshire, &c. London, | - | - 1784 |

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ERRATUM.

APPENDIX.—Page iv, line 36—Strike out "Engraved for the Political Magazine."

APPENDIX.

APPENDIX.

OBSERVATIONS ON, AND OBJECTIONS TO, THE TOPOGRAPHICAL EVIDENCE.

I.

Maps, Surveys, and Topographical Delineations, filed with the Commissioners under the 5th Article of the Treaty of Ghent.

IT had been intended on the part of the United States, to annex to their first state-
ment only those of the said Maps, Surveys, &c. which they thought unobjectionable. *Appendix.*
All of them, having been collated by mutual agreement between the two parties, are Observations on,
and Objections to,
the Topographical
Evidence.
accordingly communicated, as they appear in the copy of the American Atlas.

The few variations between that and the British Atlas, none of which are deemed material, having been noted in the joint certificate annexed to each of the Atlases, need not be repeated here.

It has been agreed by the 4th Article of the Convention of 1827, that the Map A. should be considered, by the Contracting Parties, as a delineation of the watercourses, and of the boundary lines in reference to the said watercourses, as contended for by each party respectively, and as evidence mutually acknowledged, of the topography of the country. It is, therefore, unnecessary to make any observations in relation to the watercourses as laid down on the maps, surveys, &c. which were filed with the Commissioners. The observations and objections will apply almost exclusively to the delineations of highlands, ridges and mountains. Even with respect to these, it appears unnecessary to note the errors, in relation either to course or distance, of the dividing ridges; the position and length of these being determined by the sources of the watercourses, as laid down in Map A.

Those surveys, as well as the engraved maps now adduced in evidence, being, according to the Convention, annexed only for the purposes of general illustration, it has not been deemed essential to examine them critically in all their details: and such general observations only will be submitted, as appear obviously necessary for the purpose of repelling inferences which cannot be admitted.

1. No. 7. [G. in the British Atlas.] *Mr. Odell's Survey of the Restook, with a Sketch of the Country as viewed from Mars Hill and the vicinity of Houlton Plantation.*

No objection is made to the plan of the river Restook so far as it was explored.— But no portion whatever of the country, of which Mr. Odell has pretended to give a sketch, has been surveyed, or even explored, either by him or any of the other surveyors under the commission, with the exception of the rivers St. John and Restook, the line drawn due north from the source of the river St. Croix, and Mars Hill. Not a single survey, (Mars Hill excepted,) was made west of the said north line, and south of the river Restook, so far as the plan extends. (a) Not a foot of the ground west

(a) Mount Katahdin was explored by a party coming from the Scodiac lakes, by the way of rivers Passadumkeig and Penobscot: but no part of the country between that mountain and the north line, has been surveyed or visited under the commission.

Appendix. and south-west of Mars Hill, has ever been explored or travelled over by any of the surveyors or of their party.

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Evidence.

The sketch is said to have been taken from two places nearly thirty miles apart, without the assistance of instruments or any observation. Not the slightest reliance can be placed on a view, taken in that manner, of a country the whole of which is a dense forest. It was impossible for any one to ascertain whether a ridge, or a peak, which he might have seen from Mars Hill, was the same he saw from Houlton Plantation. Supposing that Mr. Odell could, merely by a glance of the eye, have taken a profile of the country between Mars Hill and Katahdin Mountain, as seen from the vicinity of Houlton, it was impossible for him to know the distance, from the point where he was placed, of the several hills, &c. of which he has given a profile, as if it was an actual section of the country.

Some of the hills embraced within his plan, are sixty miles from Houlton: and the whole is so obviously a fanciful representation, that it would deserve no notice, was it not for the very erroneous impression which it is calculated at first sight to produce. The country not having been surveyed or explored, the situation of the watercourses remains unknown; and as they could not be seen in a hilly country covered with woods, Mr. Odell has entirely omitted them. There is not a trace, on the plan, of the upper branches of the Restook, or of the various tributary streams of the Penobscot, by which the country is intersected in every direction. Thus the appearance is given of a huge, wide and unbroken mountain, with some prominent peaks, extending fifty or sixty miles, in the direction in which it was necessary to create a chain of highlands, in order to give some color to the British pretension. With no better evidence of that fictitious chain, the United States have a right to deny that it does exist.

2. No. 18. [F. in British Atlas.] *Mr. Campbell's Sketch of the Height of Land.*

Mr. Campbell, in October, 1819, ascended the Penobscot river to Mount Katahdin, and returned down the same river. The ensuing spring he proceeded through the Kennebec country, and along the usual road thence to Quebec, to the height of land (*b*) which divides the south-west branch of the Penobscot from the sources of a tributary stream of the river Chaudière. He then proceeded about forty miles, partly along the highlands described by the treaty, partly along an easterly ridge intersected by some of the north-west upper branches of the Penobscot. Directing then his course northwardly, he reached, at some miles distance, one of the southerly sources of the Saint John, not far from the place where the conflicting lines meet.

His sketch of the country he thus explored, though not correct either as to course or distance, is not liable to any very material objection. But he has also added a view of the country, north-east and south-east from his last station towards Mars Hill (*c*) and Katahdin Mountain, which, judging by the length on his sketch of the ridge he explored, is wholly erroneous as to distance. He has there, like Mr. Odell, laid down chains of mountains suited to the British pretension, without any evidence of their existence. The United States object to the whole of that part of his sketch.

3. Nos. 13, 14, 15, 23, 24, 25, 26, (9, 10, 11, 18, 19, 20, 21 in British Atlas.)

Messrs. Burnham's, Tiarks' and Carlisle's Surveys of certain Portages, between the respective sources of some of the tributary streams of the river St. John and of the river St. Lawrence.

The usual mode of communication through the uninhabited parts of the whole of this region has hitherto been by water. Canoes, made of the bark of the birch tree,

(*b*) At the place called *Image* on Map A.

(*c*) According to Map A, Mars Hill is about 115 miles from the place where the conflicting lines meet.

are used for that purpose, drawing so little water that the smallest streams may be ascended to their sources, and so light that they may be carried by the men on board, wherever the navigation is interrupted by a rapid, and also from the source of one stream to that of another. The Indians, from whom that mode of travelling has been borrowed, necessarily sought, and from long experience discovered, the places where canoes could be carried with the greatest facility, across the ground which separated the sources of the different streams. Those places which, from that circumstance, have received the appellation of portages, or carrying places, are therefore those where the distance between the sources is shortest, and particularly, which was of far greater importance, where the ground separating those sources is the least elevated.

All the above surveys are of portages of that description, separating sources of tributary streams of the river St. John from those of the river St. Lawrence, and along the line claimed by the United States. Those portages are, therefore, the lowest gaps or depressions of the highlands, along which that line extends. No objection is made to the surveys with respect to what they contain; but they are, nevertheless, calculated to convey an erroneous impression of the general character of the highlands.

The various gaps, in which the respective sources of the streams flowing in opposite directions thus approximate, form, in each instance, a kind of valley, the course of which is perpendicular to the general direction of the highlands. The ridges by which each valley appears, in the surveys, to be bounded on both sides, are in fact nothing more than a part of the main ridge, or highlands. In order, therefore, to give a correct view of the whole ground, the surveys ought to have been extended, for some distance, on each side of the valleys, along the main ridge; and the vertical section of such survey, perpendicular to the small valley, would have given a fair representation, both of the main ridge or highland, and of its depression in the gap, where the sources of the opposite streams were near to each other.

It may here be observed, that the Umbazuckseus, (or Alaguash,) and other portages, along the British line, as well as those between the heads of Connecticut river and the sources of the river St. Francis, which falls into the river St. Lawrence, are precisely of the same character.

4. [British Atlas, No. 22.] *Greenleaf's Map of Maine.*

The northern parts of the State of Maine having been but very partially explored, at the time when this map was published, the mountains and ridges in that part of the country are wholly omitted. The United States object to any inference that may be drawn from that omission, and also to the blue colored line, drawn by the British Agent on the map.

5. [No. 29, American Atlas, and K, British Atlas.] *Extracts from Mitchell's Map.*

Both those extracts are objected to, on the part of the United States, principally on account of the omission of several names. But they have not been critically examined, as both will be superseded by Mitchell's printed map, which is to be annexed to the statements of the two Powers, in conformity with the Convention of 1827.

II.

British Transcript of the Map A.

1. Both Parties have laid down, on their respective transcripts of this map, the Katahdin, Spencer, Bald, and several other detached mountains. The position of such of these as had not been actually explored by the surveyors under the commission, cannot be considered as determined on either transcript with precision; and the existence of some of them, with Indian names on the British transcript, is doubtful.

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The dividing highlands or ridges are delineated, on the American transcript, along both the conflicting lines, in the same manner as they usually are in topographical maps; by which delineation it is not intended to attach the character of mountains, properly so called, to such dividing ridges. In the British transcript, no portion of the ridge along the American line is delineated, except such as had been explored by the surveyors: but the whole of Mr. Odell's fictitious representation of a chain of mountains, extending from Mars Hill to Mount Katahdin, has been inserted, as if there existed in that quarter and direction, a chain emphatically entitled to the appellation of highlands, and having a character distinct from that of the adjacent parts of the country, either towards the north, or in any other direction. This, being unsupported by any evidence, is objected to on the part of the United States, for the same reasons which have been alleged with respect to Mr. Odell's plan, No. 7.

2. It being stated, on the face of the British transcript, that the rivers which fall into the Atlantic Ocean are colored "blue," it is objected, on the part of the United States, that the rivers St. John, Ristigouche, and others, that have their mouths in the Bay of Fundy or the Gulf of St. Lawrence, are not thus colored.

3. Although the extent of the Madawaska Fief is quite irrelevant to the question at issue, it may be observed, that, according to the terms of the grant, as understood by the United States, it covers, in the British transcript, at least three times as much ground as is contained in the grant. The Fief is stated to be three leagues in length, on each side of the river Madawaska, on a depth of two leagues, together with the Temiscouata lake, but without any land on its banks. (e) The leagues are of twenty-five to the degree: presuming the whole breadth, or depth intended, to be four leagues, and calculating the contents of the lake by Dr. Tiarks' survey, (f) the whole does not exceed 125 square miles; whilst, according to the British transcript, it contains about five hundred.

That Fief is, in the references of the British transcript, stated as being uninterruptedly held of the Government of Canada, under the original title, to the present day. What is meant by being held of the Government of Canada, at any time since the proclamation of 1763, and to this day, is not understood. Acts of fealty and homage, and others pertaining to a feudal tenure, whilst Canada belonged to France, have been adduced in evidence. But no evidence, of a date subsequent to the conquest of Canada by Great Britain, has been adduced, of any act of that nature, or in any way proving that that fief has, subsequent to that event, been held of Canada, according to the common acceptance of that term.

4. A line is delineated on the British transcript, along the river St. John, from its mouth to its most southerly source. This line is stated, in the reference, as the most favorable which Congress thought could be obtained in 1782. Without adverting, in this place, to the expression "most favorable," it will be observed, first, that it is susceptible of proof, that the source intended by Congress was that of the north-westerly inlet of lake Temiscouata, towards the Grand Portage. 2dly. That the most southerly source of the river St. John was not known, before the surveys executed under the late commission. 3dly. That, according to Mitchell's map, the most remote and westerly source of that river which Congress could possibly be supposed to have meant, is that which, in Map A. is designated by the name of West Branch.

5. This is not the place to discuss how far the evidence which has been adduced, may prove that the Madawaska settlement has been subject to the jurisdiction of Great Britain, from its establishment in 1783 to the present day. The jurisdiction exercised by the Government of New Brunswick over that settlement, at least since it was ascertained that it lay west of the line drawn due north from the source of the river St.

(e) See British Evidence, Nos. 11, 12, and 13.

(f) Topographical Evidence—Commission Surveys, No. 15.

Croix, has been considered by the Government of the United States as an unwarrantable encroachment on their rights. It was not to be expected, that their long forbearance on that subject, the motive for which could not be mistaken, and their not opposing the transmission of the British mail along the valley of the river St. John, would be alluded to, as tending to strengthen the pretended British claim.

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6. The further observation, that this valley affords the only line of communication between Great Britain and the Canadas, through what is called the British territory, during six months of the year, is utterly irrelevant to the merits of the question; though it may serve to explain how it has happened that such a claim as that under discussion, should ever have been set up on the part of Great Britain. It may, however, be observed that, as soon as the United States shall have the exclusive possession of their own territory, Great Britain will find no difficulty in opening a road from the Great Falls of the river St. John, through her acknowledged dominions, towards the river St. Lawrence; which, though somewhat more circuitous, will, during the winter months, and at all times, afford the communication alluded to.

III.

Hale's Map of New England—Boston, 1826, communicated by the British Government.

This map is objected to, first, because the author, (on what authority, particularly under such date, is quite unintelligible,) has made the eastern, or lake, branch of the Connecticut river, the boundary between New Hampshire and Canada; secondly, because he has placed the north-west angle of Nova Scotia on the highlands which divide the tributary streams of the river Ristigouche from those of the river St. John.

ALBERT GALLATIN,
WILLIAM P. PREBLE.

WRITTEN EVIDENCE,

ANNEXED TO

THE FIRST STATEMENT

ON THE PART OF

The United States.

APPENDIX, No. 1.

TREATIES AND CONVENTIONS

BETWEEN

THE UNITED STATES AND GREAT BRITAIN.

DEFINITIVE TREATY OF PEACE

BETWEEN THE UNITED STATES AND HIS BRITANNIC MAJESTY: CONCLUDED AT
PARIS ON THE THIRD DAY OF SEPTEMBER, 1783.

In the name of the most Holy and Undivided Trinity:

It having pleased the Divine Providence to dispose the hearts of the Most Serene and Most Potent Prince George the Third, by the Grace of God King of Great Britain, France and Ireland, Defender of the Faith, Duke of Brunswick and Luneburg, Arch-Treasurer and Prince Elector of the Holy Roman Empire, &c., and of the United States of America, to forget all past misunderstandings and differences that have unhappily interrupted the good correspondence and friendship which they mutually wish to restore, and to establish such a beneficial and satisfactory intercourse between the two countries, upon the ground of reciprocal advantages and mutual convenience, as may promote and secure to both perpetual peace and harmony; and having for this desirable end already laid the foundation of peace and reconciliation, by the provisional articles signed at Paris, on the 30th of November, 1782, by the Commissioners empowered on each part, which articles were agreed to be inserted in and to constitute the Treaty of Peace proposed to be concluded between the Crown of Great Britain and the said United States, but which Treaty was not to be concluded until terms of peace should be agreed upon between Great Britain and France, and his Britannic Majesty should be ready to conclude such Treaty accordingly; and the Treaty between Great Britain and France having since been concluded, His Britannic Majesty and the United States of America, in order to carry into full effect the provisional articles above mentioned, according to the tenor thereof, have constituted and appointed, that is to say, His Britannic Majesty on his part, David Hartley, Esq. Member of the Parliament of Great Britain; and the said United States on their part, John Adams, Esq. late a Commissioner of the United States of America at the Court of Versailles, late Delegate in Congress from the State of Massachusetts, and Chief Justice of the said State, and Minister Plenipotentiary of the said United States to their High Mightinesses the States General of the United Netherlands; Benjamin Franklin, Esq. late Delegate in Congress from the State of Pennsylvania, President of the Convention of the said State, and Minister Plenipotentiary from the United States of America, at the Court of Versailles; John Jay, Esq. late President of Congress, and Chief Justice of the State of New York, and Minister Plenipotentiary from the said United States at the Court of Madrid, to be the Plenipotentiaries for the concluding and signing the present Definitive Treaty; who, after having reciprocally communicated their respective full powers, have agreed upon and confirmed the following articles:—

Appendix
No. 1.

Treaties and Conventions between the United States and Great Britain.

Definitive Treaty of Peace, 3d September, 1783.

Appendix.
No. 1.

Treaties and Con-
ventions between
the United States
and Great Britain.

Definitive Treaty
of Peace, 3d Sep-
tember, 1783.

ARTICLE I.

His Britannic Majesty acknowledges the said United States, viz. New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, to be free, sovereign and independent States; that he treats with them as such, and for himself, his heirs and successors, relinquishes all claims to the government, propriety, and territorial rights of the same, and every part thereof.

ARTICLE II.

And that *all disputes which might arise in future on the subject of the boundaries of the said United States may be prevented*, it is hereby agreed and declared, that the following are and shall be their boundaries, viz: *From the north-west angle of Nova Scotia*, viz: *that angle which is formed by a line drawn due north from the source of St. Croix River to the highlands; along the said highlands which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean*, to the north-westernmost head of Connecticut River; thence down along the middle of that river to the forty-fifth degree of north latitude; from thence by a line due west on said latitude until it strikes the river Iroquois or Cataraquy; thence along the middle of said river into Lake Ontario; through the middle of said Lake until it strikes the communication by water between that Lake and Lake Erie; thence along the middle of said communication into Lake Erie, through the middle of said Lake until it arrives at the water communication between that Lake and Lake Huron; thence along the middle of said water communication, into the Lake Huron; thence through the middle of said Lake to the water communication between that Lake and Lake Superior; thence through Lake Superior northward of the Isles Royal and Phelipeaux, to the Long Lake; thence through the middle of said Long Lake and the water communication between it and the Lake of the Woods, to the said Lake of the Woods; thence through the said Lake to the most north-western point thereof; and from thence on a due west course to the River Mississippi; thence by a line to be drawn along the middle of the said River Mississippi until it shall intersect the northernmost part of the thirty-first degree of north latitude—South by a line to be drawn due east from the determination of the line last mentioned in the latitude of thirty-one degrees north of the equator, to the middle of the River Apalachicola or Catahouche; thence along the middle thereof to its junction with the Flint River; thence straight to the head of St. Mary's River; and thence down along the middle of St. Mary's River to the Atlantic Ocean—*EAST, by a line to be drawn along the middle of the River St. Croix, from its mouth in the Bay of Fundy to its source, and from its source directly north to the aforesaid highlands which divide the rivers that fall into the Atlantic Ocean from those which fall into the River St. Lawrence*; comprehending all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid boundaries between Nova Scotia on the one part, and East Florida on the other, shall respectively touch the Bay of Fundy and the Atlantic Ocean, excepting such islands as now are, or heretofore have been, within the limits of the said Province of Nova Scotia.

ARTICLE III.

It is agreed that the people of the United States shall continue to enjoy unmolested the right to take fish of every kind *on the Grand Bank*, and *on all the other banks of Newfoundland*; also, *in the Gulf of St. Lawrence*, and at *all other places in the sea*, where the inhabitants of both countries used at any time heretofore to fish. And also, that the inhabitants of the United States shall have liberty to take fish of every kind on such part of the coast of Newfoundland as British fishermen shall use, (but not to

dry or cure the same on that Island,) and also on the coasts, bays and creeks of all other of his Britannic Majesty's dominions in America; and that the American fishermen shall have liberty to dry and cure fish in any of the unsettled bays, harbors and creeks of Nova Scotia, Magdalen Islands, and Labrador, so long as the same shall remain unsettled; but so soon as the same, or either of them, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such settlement, without a previous agreement for that purpose with the inhabitants, proprietors, or possessors of the ground.

Appendix.
No. 1.

Treaties and Conventions between the United States and Great Britain.

Definitive Treaty of Peace, 3d September, 1783.

ARTICLE IV.

It is agreed that creditors on either side shall meet with no lawful impediment to the recovery of the full value, in sterling money, of all bonâ fide debts heretofore contracted.

ARTICLE V.

It is agreed that the Congress shall earnestly recommend it to the Legislatures of the respective States, to provide for the restitution of all estates, rights and properties, which have been confiscated, belonging to real British subjects; and also of the estates, rights and properties of persons resident in districts in the possession of His Majesty's arms, and who have not borne arms against the said United States: And that persons of any other description shall have free liberty to go to any part or parts of any of the thirteen United States, and therein to remain twelve months unmolested in their endeavours to obtain the restitution of such of their estates, rights and properties as may have been confiscated; and that Congress shall also earnestly recommend to the several States, a reconsideration and revision of all acts or laws regarding the premises, so as to render the said laws or acts perfectly consistent, not only with justice and equity, but with that spirit of conciliation which, on the return of the blessings of peace, should universally prevail. And that Congress shall also earnestly recommend to the several States, that the estates, rights and properties, of such last mentioned persons shall be restored to them, they refunding to any persons who may be now in possession, the bonâ fide price (where any has been given) which such persons may have paid on purchasing any of the said lands, rights or properties, since the confiscation.

And it is agreed that all persons who have any interest in confiscated lands, either by debts, marriage settlements, or otherwise, shall meet with no lawful impediment in the prosecution of their just rights.

ARTICLE VI.

That there shall be no future confiscations made, nor any prosecutions commenced, against any person or persons for, or by reason of, the part which he or they may have taken in the present war, and that no person shall, on that account, suffer any future loss or damage, either in his person, liberty or property; and that those who may be in confinement on such charges, at the time of the ratification of the treaty in America, shall be immediately set at liberty, and the prosecutions so commenced be discontinued.

ARTICLE VII.

There shall be a firm and perpetual peace between His Britannic Majesty and the said States, and between the subjects of the one and the citizens of the other; wherefore all hostilities, both by sea and land, shall from henceforth cease. All prisoners on both sides shall be set at liberty, and His Britannic Majesty shall, with all convenient speed, and without causing any destruction, or carrying away any negroes, or other property of the American inhabitants, withdraw all his armies, garrisons and fleets, from the said United States, and from every post, place and harbor, within the same; leaving in all fortifications the American artillery that may be therein: And shall also order and cause all archives, records, deeds and papers, belonging to any of the

Appendix. said States, or their citizens, which in the course of the war may have fallen into the hands of his officers, to be forthwith restored and delivered to the proper States and persons to whom they belong.

Treaties and Conventions between the United States and Great Britain.

ARTICLE VIII.

Definitive Treaty of Peace, 3d September, 1793.

The navigation of the river Mississippi, from its source to the Ocean, shall for ever remain free and open to the subjects of Great Britain and the citizens of the United States.

ARTICLE IX.

In case it should so happen that any place or territory belonging to Great Britain or to the United States, should have been conquered by the arms of either from the other, before the arrival of the said provisional articles in America, it is agreed that the same shall be restored without difficulty and without requiring any compensation.

ARTICLE X.

The solemn ratifications of the present treaty, expedited in good and due form, shall be exchanged between the Contracting Parties in the space of six months, or sooner, if possible, to be computed from the day of the signature of the present treaty.

In witness whereof, we, the undersigned, their Ministers Plenipotentiary, have, in their name, and in virtue of our full powers, signed with our hands the present Definitive Treaty, and caused the seals of our arms to be affixed thereto.

Done at Paris, this third day of September, in the year of our Lord one thousand seven hundred and eighty-three.

| | |
|---------|--------------|
| [L. s.] | D. HARTLEY, |
| [L. s.] | JOHN ADAMS, |
| [L. s.] | B. FRANKLIN, |
| [L. s.] | JOHN JAY. |

TREATY OF AMITY, COMMERCE AND NAVIGATION,

BETWEEN HIS BRITANNIC MAJESTY AND THE UNITED STATES OF AMERICA, BY THEIR PRESIDENT, WITH THE ADVICE AND CONSENT OF THEIR SENATE.

Treaty of Commerce and Navigation, 10th November, 1794.

His Britannic Majesty and the United States of America, being desirous by a treaty of amity, commerce, and navigation, to terminate their differences in such a manner as, without reference to the merits of their respective complaints and pretensions, may be the best calculated to produce mutual satisfaction and good understanding; and, also, to regulate the commerce and navigation between their respective countries, territories, and people, in such a manner as to render the same reciprocally beneficial and satisfactory, they have, respectively, named their Plenipotentiaries, and given them full power to treat of, and conclude, the said treaty; that is to say, His Britannic Majesty has named for his Plenipotentiary, the Right Honorable William Wyndham, Baron Grenville, of Wotton, one of his Majesty's Privy Council, and His Majesty's Principal Secretary of State for Foreign Affairs, and the President of the said United States, by and with the advice and consent of the Senate thereof, hath appointed for their Plenipotentiary, the Honorable John Jay, Chief Justice of the said United States and their Envoy Extraordinary to His Majesty, who have agreed on, and concluded the following articles :—

ARTICLE I.

There shall be a firm, inviolable, and universal peace, and a true and sincere friendship between His Britannic Majesty, his heirs and successors, and the United States

of America; and between their respective countries, territories, cities, towns, and people of every degree, without exception of persons or places.

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ARTICLE II.

His Majesty will withdraw all his troops and garrisons, from all posts and places within the boundary lines assigned by the treaty of peace to the United States. This evacuation shall take place on or before the first day of June, one thousand seven hundred and ninety-six, and all the proper measures shall, in the interval, be taken by concert between the Government of the United States and His Majesty's Governor General in America, for settling the previous arrangements which may be necessary, respecting the delivery of the said posts. The United States, in the mean time, at their discretion, extending their settlements to any part within the said boundary line, except within the precincts or jurisdiction of any of the said posts. All settlers and traders within the precincts or jurisdiction of the said posts, shall continue to enjoy unmolested, all their property of every kind, and shall be protected therein. They shall be at full liberty to remain there, or to remove, with all or any part of their effects; and it shall also be free to them to sell their lands, houses, or effects, or to retain the property thereof, at their discretion: such of them as shall continue to reside within the said boundary lines shall not be compelled to become citizens of the United States, or to take any oath of allegiance to the Government thereof, but they shall be at full liberty so to do, if they think proper, and they shall make and declare their election within one year after the evacuation aforesaid. And all persons who shall continue there after the expiration of the said year, without having declared their intention of remaining subjects of His Britannic Majesty, shall be considered as having elected to become citizens of the United States.

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ARTICLE III.

It is agreed that it shall at all times be free to his Majesty's subjects, and to the citizens of the United States, and also to the Indians dwelling on either side of the said boundary line, freely to pass and repass by land or inland navigation, into the respective territories and countries of the two parties, on the continent of America, (the country within the limits of the Hudson's Bay Company only excepted,) and to navigate all the lakes, rivers, and waters thereof, and freely to carry on trade and commerce with each other. But it is understood, that this article does not extend to the admission of vessels of the United States into the seaports, harbors, bays, or creeks, of His Majesty's said territories; nor into such parts of the rivers in His Majesty's said territories, as are between the mouth thereof, and the highest port of entry from the sea, except in small vessels trading *bonâ fide* between Montreal and Quebec, under such regulations as shall be established to prevent the possibility of any frauds in this respect. Nor to the admission of British vessels from the sea into the rivers of the United States, beyond the highest ports of entry for foreign vessels from the sea. The river Mississippi shall, however, according to the treaty of peace, be entirely open to both parties; and it is further agreed, that all the ports and places on its eastern side, to whichever of the parties belonging, may freely be resorted to, and used by both parties, in as ample a manner as any of the Atlantic ports or places of the United States, or any of the ports or places of His Majesty in Great Britain.

All goods and merchandise whose importation into His Majesty's said territories in America, shall not be entirely prohibited, may freely, for the purposes of commerce, be carried into the same in the manner aforesaid, by the citizens of the United States, and such goods and merchandise shall be subject to no higher or other duties than would be payable by His Majesty's subjects on the importation of the same from Europe into the said territories. And in like manner, all goods and merchandise whose importation into the United States shall not be wholly prohibited, may freely, for the purposes of commerce, be carried into the same, in the manner aforesaid, by His Ma-

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jeſty's ſubjects, and ſuch goods and merchandiſe ſhall be ſubject to no higher or other duties, than would be payable by the citizens of the United States on the importation of the ſame in American veſſels into the Atlantic ports of the ſaid States. And all goods not prohibited to be exported from the ſaid territories, reſpectively, may, in like manner, be carried out of the ſame by the two parties reſpectively, paying duty as aforeſaid.

No duty of entry ſhall ever be levied by either party on peltries brought by land or inland navigation into the ſaid territories reſpectively, nor ſhall the Indians, paſſing or repaſſing with their own proper goods and effects, of whatever nature, pay for the ſame any impoſt or duty whatever. But goods in bales, or other large packages, unuſual among Indians, ſhall not be conſidered as goods belonging bona fide to Indians.

No higher or other tolls or rates of ferriage than what are or ſhall be payable by natives, ſhall be demanded on either ſide; and no duties ſhall be payable on any goods which ſhall be merely carried over any of the portages or carrying places on either ſide, for the purpoſe of being immediately reſhipped and carried to ſome other place or places. But as, by this ſtipulation, it is only meant to ſecure to each party a free paſſage acroſs the portages on both ſides, it is agreed that this exemption from duty ſhall extend only to ſuch goods as are carried in the uſual and direct road acroſs the portage, and are not attempted to be in any manner ſold or exchanged during their paſſage acroſs the ſame, and proper regulations may be eſtabliſhed to prevent the poſſibility of any frauds in this reſpect.

As this article is intended to render, in a great degree, the local advantages of each party common to both, and thereby to promote a diſpoſition favorable to friendſhip and good neighborhoed, it is agreed, that the reſpective Governments will mutually promote this amicable intercourſe, by cauſing ſpeedy and impartial juſtice to be done, and neceſſary protection to be extended to all who may be concerned therein.

ARTICLE IV.

Whereas it is uncertain whether the river Miſſiſſippi extends ſo far to the northward as to be interſected by a line to be drawn due weſt from the Lake of the Woods, in the manner mentioned in the treaty of peace between His Maſteſty and the United States, it is agreed, that meaſures ſhall be taken in concert between His Maſteſty's Government in America, and the Government of the United States, for making a joint ſurvey of the ſaid river, from one degree of latitude below the falls of St. Anthony to the principal ſource or ſources of the ſaid river, and alſo of the parts adjacent thereto: and that if, on the reſult of ſuch ſurvey, it ſhould appear that the ſaid river would not be interſected by ſuch a line as is above mentioned, the two parties will thereupon proceed, by amicable negotiation, to regulate the boundary line in that quarter, as well as all other points to be adjusted between the ſaid parties, according to juſtice and mutual convenience, and in conformity to the intent of the ſaid treaty.

ARTICLE V.

Whereas doubts have ariſen what river was truly intended under the name of the River St. Croix, mentioned in the ſaid treaty of peace, and forming a part of the boundary therein deſcribed, that queſtion ſhall be referred to the final deciſion of Commiſſioners to be appointed in the following manner, viz:

One Commiſſioner ſhall be named by His Maſteſty, and one by the Preſident of the United States, by and with the advice and conſent of the Senate thereof, and the ſaid two Commiſſioners ſhall agree on the choice of a third; or, if they cannot ſo agree, they ſhall each propoſe one perſon, and of the two names ſo propoſed, one ſhall be drawn by lot in the preſence of the two original Commiſſioners. And the three Commiſſioners ſo appointed, ſhall be ſworn impartially to examine and decide the ſaid queſtion, according to ſuch evidence as ſhall reſpectively be laid before them on the

part of the British Government and of the United States. The said Commissioners shall meet at Halifax, and shall have power to adjourn to such other place or places as they shall think fit. They shall have power to appoint a Secretary, and to employ such Surveyors or other persons as they shall judge necessary. The said Commissioners shall, by a declaration under their hands and seals, decide what river is the River St. Croix intended by the treaty. The said declaration shall contain a description of the said river, and shall particularize the latitude and longitude of its mouth and of its source. Duplicates of this declaration, and of the statements of their accounts, and of the journal of their proceedings, shall be delivered by them to the agent of His Majesty, and to the agent of the United States, who may be respectively appointed and authorized to manage the business on behalf of the respective Governments. And both parties agree to consider such decision as final and conclusive; so as that the same shall never thereafter be called into question, or made the subject of dispute or difference between them.

ARTICLE VI.

Whereas it is alleged by divers British merchants and others, His Majesty's subjects, that debts to a considerable amount, which were bona fide contracted before the peace, still remain owing to them by citizens or inhabitants of the United States; and that, by the operation of various lawful impediments since the peace, not only the full recovery of the said debts has been delayed, but also the value and security thereof have been, in several instances, impaired and lessened, so that by the ordinary course of judicial proceedings, the British creditors cannot now obtain, and actually have and receive, full and adequate compensation for the losses and damages which they have thereby sustained: it is agreed, that in all such cases, where full compensation for such losses and damages cannot, for whatever reason, be actually obtained, had and received, by the said creditors, in the ordinary course of justice, the United States will make full and complete compensation for the same to the said creditors: but it is distinctly understood that this provision is to extend to such losses only as have been occasioned by the lawful impediments aforesaid, and is not to extend to losses occasioned by such insolvency of the debtors, or other causes, as would equally have operated to produce such loss, if the said impediments had not existed; nor to such losses or damages as have been occasioned by the manifest delay or negligence, or wilful omission of the claimant.

For the purpose of ascertaining the amount of any such losses or damages, five Commissioners shall be appointed, and authorized to meet and act in manner following, viz: Two of them shall be appointed by His Majesty, two of them by the President of the United States, by and with the advice and consent of the Senate thereof, and the fifth by the unanimous voice of the other four; and, if they should not agree in such choice, then the Commissioners named by the two parties shall, respectively, propose one person, and of the two names so proposed, one shall be drawn by lot in the presence of the four original Commissioners. When the five Commissioners thus appointed shall first meet, they shall, before they proceed to act, respectively take the following oath or affirmation, in the presence of each other, which oath or affirmation being so taken and duly attested, shall be entered on the record of their proceedings, viz: I, A B, one of the Commissioners appointed in pursuance of the Sixth Article of the treaty of amity, commerce, and navigation, between His Britannic Majesty and the United States of America, do solemnly swear, (or affirm,) that I will honestly, diligently, impartially, and carefully examine, and to the best of my judgment, according to justice and equity, decide all such complaints as under the said article shall be preferred to the said Commissioners; and that I will forbear to act as a Commissioner in any case in which I may be personally interested.

Three of the said Commissioners shall constitute a Board, and shall have power to do any act appertaining to the said commission, provided that one of the Commissioners

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named on each side, and the fifth Commissioner shall be present; and all decisions shall be made by the majority of the voices of the Commissioners then present. Eighteen months from the day on which the said Commissioners shall form a Board, and be ready to proceed to business, are assigned for receiving complaints and applications; but they are nevertheless authorized, in any particular cases in which it shall appear to them to be reasonable and just, to extend the said term of eighteen months, for any term not exceeding six months after the expiration thereof. The said Commissioners shall first meet at Philadelphia, but they shall have power to adjourn from place to place, as they shall see cause.

The said Commissioners, in examining the complaints and applications so preferred to them, are empowered and required, in pursuance of the true intent and meaning of this article, to take into their consideration all claims, whether of principal or interest, or balances of principal or interest; and to determine the same respectively, according to the merits of the several cases, due regard being had to all the circumstances thereof, and as equity and justice shall appear to them to require. And the said Commissioners shall have power to examine all such persons as shall come before them, on oath or affirmation, touching the premises; and, also, to receive in evidence, according as they may think most consistent with equity and justice, all written depositions, or books or papers, or copies or extracts thereof; every such deposition, book, paper, or copy or extract, being duly authenticated, either according to the legal forms now respectively existing in the two countries, or in such other manner as the said Commissioners shall see cause to require or allow.

The award of the said Commissioners, or of any three of them, as aforesaid, shall in all cases be final and conclusive, both as to the justice of the claim, and to the amount of the sum to be paid to the creditor or claimant: and the United States undertake to cause the sum so awarded, to be paid in specie to such creditor or claimant, without deduction; and at such time or times, and at such place or places, as shall be awarded by the said Commissioners; and on condition of such releases or assignments, to be given by the creditor or claimant, as by the said Commissioners may be directed: *Provided, always*, that no such payment shall be fixed by the said Commissioners to take place sooner than twelve months from the day of the exchange of the ratifications of this treaty.

ARTICLE VII.

Whereas complaints have been made by divers merchants and others, citizens of the United States, that during the course of the war in which His Majesty is now engaged, they have sustained considerable losses and damage, by reason of irregular or illegal captures or condemnations, of their vessels and other property, under color of authority or commissions from His Majesty, and that from various circumstances belonging to the said cases, adequate compensation for the losses and damages so sustained cannot now be actually obtained, had and received, by the ordinary course of judicial proceedings; it is agreed, that in all such cases, where adequate compensation cannot, for whatever reason, be now actually obtained, had and received, by the said merchants and others, in the ordinary course of justice, full and complete compensation for the same will be made by the British Government to the said complainants. But it is distinctly understood that this provision is not to extend to such losses or damages as have been occasioned by the manifest delay or negligence, or wilful omission of the claimant.

That for the purpose of ascertaining the amount of any such losses and damages, five Commissioners, shall be appointed and authorized to act in London, exactly in the manner directed with respect to those mentioned in the preceding article, and after having taken the same oath or affirmation (*mutatis mutandis*) the same term of eighteen months is also assigned for the reception of claims, and they are, in like manner, authorized to extend the same in particular cases. They shall receive testimony, books, papers, and evidence, in the same latitude, and exercise the like discretion and powers

respecting that subject, and shall decide the claims in question according to the merits of the several cases, and to justice, equity, and the laws of nations. The award of the said Commissioners, or any such three of them as aforesaid, shall in all cases be final and conclusive, both as to the justice of the claim and to the amount of the sum to be paid to the claimant; and His Britannic Majesty undertakes to cause the same to be paid to such claimant in specie, without any deduction, at such place or places, and at such time or times, as shall be awarded by the said Commissioners, and on condition of such releases or assignments, to be given by the claimants, as by the said Commissioners may be directed.

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And whereas certain merchants and others, His Majesty's subjects, complain that, in the course of the war, they have sustained loss and damage by reason of the capture of their vessels and merchandise, taken within the limits and jurisdiction of the States, and brought into the ports of the same, or taken by vessels originally armed in ports of the said States.

It is agreed that in all such cases where restitution shall not have been made agreeably to the tenor of the letter from Mr. Jefferson to Mr. Hammond, dated at Philadelphia, September 5, 1793, a copy of which is annexed to this treaty; the complaints of the parties shall be, and hereby are, referred to the Commissioners to be appointed by virtue of this article, who are hereby authorized and required to proceed in the like manner relative to these, as to the other cases committed to them; and the United States undertake to pay to the complainants or claimants in specie, without deduction, the amount of such sums as shall be awarded to them respectively, by the said Commissioners, and at the times and places which, in such awards, shall be specified; and on condition of such releases or assignments, to be given by the claimants, as in the said awards may be directed: And it is further agreed, that not only the now existing cases of both descriptions, but also all such as shall exist at the time of exchanging the ratifications of this treaty, shall be considered as being within the provisions, intent, and meaning, of this article.

ARTICLE VIII.

It is further agreed, that the Commissioners mentioned in this and in the two preceding articles, shall be respectively paid in such manner as shall be agreed between the two parties, such agreement being to be settled at the time of the exchange of the ratifications of this treaty. And all other expenses attending the said commissions shall be defrayed jointly by the two parties, the same being previously ascertained and allowed by the majority of the Commissioners. And in the case of death, sickness, or necessary absence, the place of every such Commissioner respectively, shall be supplied in the same manner as such Commissioner was first appointed, and the new Commissioners shall take the same oath or affirmation, and do the same duties.

ARTICLE IX.

It is agreed that British subjects who now hold lands in the territories of the United States, and American citizens who now hold lands in the dominions of His Majesty, shall continue to hold them according to the nature and tenure of their respective estates and titles therein; and may grant, sell, or devise the same to whom they please, in like manner as if they were natives, and that neither they nor their heirs or assigns shall, so far as may respect the said lands and the legal remedies incident thereto, be regarded as aliens.

ARTICLE X.

Neither the debts due from individuals of the one nation to individuals of the other, nor shares nor moneys which they may have in the public funds or in the public or private banks, shall ever, in any event of war or national differences, be sequestered or confiscated; it being unjust and impolitic that debts and engagements contracted and made by individuals having confidence in each other and in their respective Govern-

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ARTICLE XI.

It is agreed between His Majesty and the United States of America, that there shall be a reciprocal and entirely perfect liberty of navigation and commerce between their respective people, in the manner, under the limitations, and on the conditions specified in the following articles.

ARTICLE XII.

His Majesty consents that it shall and may be lawful during the time hereinafter limited, for the citizens of the United States to carry to any of His Majesty's Islands and ports in the West Indies, from the United States, in their own vessels, not being above the burthen of seventy tons, any goods or merchandises, being of the growth, manufacture, or produce of the said States, which it is or may be lawful to carry to the said islands or ports, from the said States, in British vessels; and that the said American vessels shall be subject there, to no other or higher tonnage duties or charges than shall be payable by British vessels in the ports of the United States; and that the cargoes of the said American vessels shall be subject there, to no other or higher duties or charges than shall be payable on the like articles if imported there from the said States in British vessels.

And His Majesty also consents, that it shall be lawful for the said American citizens to purchase, load, and carry away in their said vessels, to the United States, from the said islands and ports, all such articles, being of the growth, manufacture, or produce of the said islands, as may now, by law, be carried from thence to the said States in British vessels, and subject only to the same duties and charges on exportation, to which British vessels and their cargoes are, or shall be subject, in similar circumstances. *Provided, always,* that the said American vessels do carry and land their cargoes in the United States only, it being expressly agreed and declared, that during the continuance of this article, the United States will prohibit and restrain the carrying any molasses, sugar, coffee, cocoa or cotton, in American vessels, either from His Majesty's Islands, or from the United States to any part of the world, except the United States, reasonable sea stores excepted. *Provided, also,* that it shall and may be lawful, during the same period, for British vessels to import from the said islands into the United States, and to export from the United States to the said islands, all articles whatever, being of the growth, produce, or manufacture of the said islands, or of the United States respectively, which now may, by the laws of the said States, be so imported and exported. And that the cargoes of the said British vessels shall be subject to no other or higher duties or charges than shall be payable on the same articles, if so imported or exported in American vessels.

It is agreed, that this article and every matter and thing therein contained, shall continue to be in force during the continuance of the war in which His Majesty is now engaged; and, also, for two years from and after the day of the signature of the preliminary or other articles of peace, by which the same may be terminated.

And it is further agreed that, at the expiration of the said term, the two Contracting Parties will endeavor to regulate their commerce in this respect, according to the situation in which His Majesty may then find himself, with respect to the West Indies, and with a view to such arrangements as may best conduce to the mutual advantage and extension of commerce. And the said parties will then also renew their discussions, and endeavor to agree, whether in any, and what, cases neutral vessels shall protect enemy's property; and in what cases provisions and other articles, not generally contraband, may become such. But, in the mean time, their conduct towards each other in these respects, shall be regulated by the articles hereinafter inserted on those subjects.

ARTICLE XIII.

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His Majesty consents that the vessels belonging to the citizens of the United States of America, shall be admitted and hospitably received, in all the seaports and harbors of the British territories in the East Indies. And that the citizens of the said United States may freely carry on a trade between the said territories and the said United States, in all articles of which the importation or exportation, respectively, to or from the said territories, shall not be entirely prohibited. *Provided, only,* that it shall not be lawful for them in any time of war between the British Government and any other Power or State whatever, to export from the said territories, without the special permission of the British Government there, any military stores, or naval stores, or rice. The citizens of the United States shall pay for their vessels, when admitted into the said ports, no other or higher tonnage duty than shall be payable on British vessels when admitted into the ports of the United States. And they shall pay no other or higher duties or charges on the importation or exportation of the cargoes of the said vessels, than shall be payable on the same articles when imported or exported in British vessels. But it is expressly agreed, that the vessels of the United States shall not carry any of the articles exported by them from the said British territories, to any port or place, except to some port or place in America, where the same shall be unladen, and such regulations shall be adopted by both parties as shall, from time to time, be found necessary to enforce the due and faithful observance of this stipulation. It is also understood, that the permission granted by this article, is not to extend to allow the vessels of the United States to carry on any part of the coasting trade of the said British territories; but vessels going with their original cargoes, or part thereof, from one port of discharge to another, are not to be considered as carrying on the coasting trade. Neither is this article to be construed to allow the citizens of the said States, to settle or reside within the said territories, or to go into the interior parts thereof, without the permission of the British Government established there; and if any transgression should be attempted against the regulations of the British Government in this respect, the observance of the same shall and may be enforced against the citizens of America, in the same manner as against British subjects, or others transgressing the same rule. And the citizens of the United States, whenever they arrive in any port or harbor in the said territories, or if they should be permitted, in manner aforesaid, to go to any other place therein, shall always be subject to the laws, government, and jurisdiction, of whatever nature established in such harbor, port or place, according as the same may be. The citizens of the United States may also touch for refreshment at the Island of St. Helena, but subject in all respects to such regulations as the British Government may, from time to time, establish there.

ARTICLE XIV.

There shall be between all the dominions of His Majesty in Europe, and the territories of the United States, a reciprocal and perfect liberty of commerce and navigation. The people and inhabitants of the two countries, respectively, shall have liberty, freely and securely, and without hinderance and molestation, to come with their ships and cargoes to the lands, countries, cities, ports, places, and rivers, within the dominions and territories aforesaid, to enter into the same, to resort there, and to remain and reside there, without any limitation of time. Also, to hire and possess houses and warehouses for the purposes of their commerce, and, generally, the merchants and traders on each side shall enjoy the most complete protection and security for their commerce, but subject always, as to what respects this article, to the laws and statutes of the two countries respectively.

ARTICLE XV.

It is agreed, that no other or higher duties shall be paid by the ships or merchandise of the one party in the ports of the other, than such as are paid by the like ves-

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sels or merchandise of all other nations. Nor shall any other or higher duty be imposed in one country, on the importation of any articles, of the growth, produce, or manufacture of the other, than are or shall be payable on the importation of the like articles, being of the growth, produce, or manufacture of any other foreign country. Nor shall any prohibition be imposed on the exportation or importation of any articles to or from the territories of the two parties, respectively, which shall not equally extend to all other nations.

But the British Government reserves to itself the right of imposing on American vessels, entering into the British ports in Europe, a tonnage duty equal to that which shall be payable by British vessels in the ports of America; and, also, such duty as may be adequate to countervail the difference of duty now payable on the importation of European and Asiatic goods, when imported into the United States, in British or in American vessels.

The two parties agree to treat for the more exact equalization of the duties on the respective navigation of their subjects and people, in such manner as may be most beneficial to the two countries. The arrangements for this purpose shall be made at the same time with those mentioned at the conclusion of the twelfth article of this treaty, and are to be considered as a part thereof. In the interval, it is agreed, that the United States will not impose any new or additional tonnage duties on British vessels, nor increase the now subsisting difference between the duties payable on the importation of any articles in British or in American vessels.

ARTICLE XVI.

It shall be free for the two Contracting Parties, respectively, to appoint Consuls for the protection of trade, to reside in the dominions and territories aforesaid: and the said Consuls shall enjoy those liberties and rights which belong to them by reason of their function. But before any Consul shall act as such, he shall be in the usual forms approved and admitted by the party to whom he is sent; and it is hereby declared to be lawful and proper, that in case of illegal or improper conduct towards the laws or Government, a Consul may either be punished according to law, if the laws will reach the case, or be dismissed, or even sent back, the offended Government assigning to the other their reasons for the same.

Either of the parties may except from the residence of Consuls, such particular places as such party shall judge proper to be so excepted.

ARTICLE XVII.

It is agreed, that in all cases where vessels shall be captured or detained, on just suspicion of having on board enemy's property, or of carrying to the enemy any of the articles which are contraband of war, the said vessel shall be brought to the nearest or most convenient port, and if any property of an enemy should be found on board such vessel, that part only which belongs to the enemy shall be made prize, and the vessel shall be at liberty to proceed with the remainder without any impediment. And it is agreed, that all proper measures shall be taken to prevent delay, in deciding the cases of ships or cargoes so brought in for adjudication; and in the payment or recovery of any indemnification, adjudged or agreed to be paid to the masters or owners of such ships.

ARTICLE XVIII.

In order to regulate what in future is to be esteemed contraband of war, it is agreed, that under the said denomination shall be comprised all arms and implements serving for the purposes of war, by land or sea, such as cannon, muskets, mortars, petards, bombs, grenades, carcasses, saucisses, carriages for cannon, musket rests, bandoliers, gunpowder, match, saltpetre, ball, pikes, swords, head pieces, cuirasses, halberts, lances, javelins, horses, horse furniture, holsters, belts, and, generally, all other implements of

war; as also, timber for ship building, tar or rosin, copper in sheets, sails, hemp and cordage, and, generally, whatever may serve directly to the equipment of vessels, unwrought iron and fir planks only excepted; and all the above articles are hereby declared to be just objects of confiscation, whenever they are attempted to be carried to an enemy.

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And whereas the difficulty of agreeing on the precise cases, in which alone provisions and other articles not generally contraband, may be regarded as such, renders it expedient to provide against the inconveniences and misunderstandings which might thence arise, it is further agreed, that whenever any such articles so becoming contraband, according to the existing laws of nations, shall for that reason be seized, the same shall not be confiscated, but the owners thereof shall be speedily and completely indemnified: and the captors, or, in their default, the Government under whose authority they act, shall pay to the masters or owners of such vessels the full value of all such articles, with a reasonable mercantile profit thereon, together with the freight, and also the demurrage incident to such detention.

And whereas it frequently happens, that vessels sail for a port or place belonging to an enemy, without knowing that the same is either besieged, blockaded, or invested, it is agreed, that every vessel so circumstanced, may be turned away from such port or place; but she shall not be detained, nor her cargo, if not contraband, be confiscated, unless after notice she shall again attempt to enter; but she shall be permitted to go to any other port or place she may think proper: Nor shall any vessel or goods of either party, that may have entered into such port or place before the same was besieged, blockaded, or invested by the other, and be found therein after the reduction or surrender of such place, be liable to confiscation, but shall be restored to the owners or proprietors thereof.

ARTICLE XIX.

And that more abundant care may be taken for the security of the respective subjects and citizens of the Contracting Parties, and to prevent their suffering injuries by the men of war, or privateers of either party, all commanders of ships of war, and privateers, and all others, the said subjects and citizens, shall forbear doing any damage to those of the other party, or committing any outrage against them, and if they act to the contrary, they shall be punished, and shall also be bound in their persons and estates, to make satisfaction and reparation for all damages, and the interest thereof, of whatever nature the said damages may be.

For this cause all commanders of privateers, before they receive their commissions, shall hereafter be obliged to give, before a competent judge, sufficient security, by at least two responsible sureties, who have no interest in the said privateer, each of whom, together with the said commander, shall be jointly and severally bound in the sum of fifteen hundred pounds sterling, and if such ship be provided with above one hundred and fifty seamen or soldiers, in the sum of three thousand pounds sterling, to satisfy all damages and injuries which the said privateer, or her officers or men, or any of them, may do or commit during their cruise, contrary to the tenor of this treaty, or to the laws and instructions for regulating their conduct; and further, that in all cases of aggressions the said commissions shall be revoked and annulled.

It is also agreed, that whenever a Judge of a Court of Admiralty, of either of the parties, shall pronounce sentence against any vessel, or goods, or property, belonging to the subjects or citizens of the other party, a formal and duly authenticated copy of all the proceedings in the cause, and of the said sentence, shall, if required, be delivered to the commander of the said vessel, without the smallest delay, he paying all legal fees and demands for the same.

ARTICLE XX.

It is further agreed, that both the said Contracting Parties shall not only refuse to receive any pirates into any of their ports, havens, or towns, or permit any of their in-

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And all their ships, with the goods or merchandises taken by them, and brought into the port of either of the said parties, shall be seized, as far as they can be discovered, and shall be restored to the owners, or their factors or agents, duly deputed and authorized in writing by them, (proper evidence being first given in the Court of Admiralty for proving the property,) even in case such effects should have passed into other hands by sale, if it be proved that the buyers knew, or had good reason to believe or suspect, that they had been piratically taken.

ARTICLE XXI.

It is likewise agreed, that the subjects and citizens of the two nations shall not do any acts of hostility or violence against each other, nor accept commissions or instructions so to act from any foreign Prince or State, enemies to the other party; nor shall the enemies of one of the parties be permitted to invite, or endeavor to enlist in their military service, any of the subjects or citizens of the other party, and the laws against all such offences and aggressions shall be punctually executed. And if any subject or citizen of the said parties, respectively, shall accept any foreign commission, or letters of marque, for arming any vessel to act as a privateer against the other party, and be taken by the other party, it is hereby declared to be lawful for the said party to treat and punish the said subject or citizen, having such commission or letters of marque, as a pirate.

ARTICLE XXII.

It is expressly stipulated, that neither of the said Contracting Parties will order or authorize any acts of reprisal against the other, on complaints of injuries or damages, until the said party shall first have presented to the other a statement thereof, verified by competent proof and evidence, and demanded justice and satisfaction, and the same shall either have been refused or unreasonably delayed.

ARTICLE XXIII.

The ships of war of each of the Contracting Parties shall, at all times, be hospitably received in the ports of the other, their officers and crews paying due respect to the laws and Government of the country. The officers shall be treated with that respect which is due to the commissions which they bear, and if any insult should be offered to them by any of the inhabitants, all offenders in this respect shall be punished as disturbers of the peace and amity between the two countries. And His Majesty consents, that in case an American vessel should, by stress of weather, danger from enemies, or other misfortune, be reduced to the necessity of seeking shelter in any of His Majesty's ports, into which such vessel could not, in ordinary cases, claim to be admitted, she shall, on manifesting that necessity to the satisfaction of the Government of the place, be hospitably received, and be permitted to refit, and to purchase, at the market price, such necessaries as she may stand in need of, conformably to such orders and regulations as the Government of the place, having respect to the circumstances of each case, shall prescribe. She shall not be allowed to break bulk or unload her cargo, unless the same should be bonâ fide necessary to her being refitted; nor shall she be permitted to sell any part of her cargo, unless so much only as may be necessary to defray her expenses, and then not without the express permission of the Government of the place; nor shall she be obliged to pay any duties whatever, except only on such articles as she may be permitted to sell for the purpose aforesaid.

ARTICLE XXIV.

It shall not be lawful for any foreign privateers, (not being subjects or citizens of either of the said parties,) who have commissions from any other Prince or State in

enmity with either nation, to arm their ships in the ports of either of the said parties, nor to sell what they have taken, nor in any other manner to exchange the same; nor shall they be allowed to purchase more provisions than shall be necessary for their going to the nearest port of that Prince or State from whom they obtained their commissions.

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ARTICLE XXV.

It shall be lawful for the ships of war and privateers belonging to the said parties, respectively, to carry whithersoever they please, the ships and goods taken from their enemies, without being obliged to pay any fee to the officers of the Admiralty, or to any judges whatever; nor shall the said prizes, when they arrive at and enter the ports of the said parties, be detained or seized; neither shall the searchers or other officers of those places, visit such prizes, (except for the purpose of preventing the carrying of any part of the cargo thereof on shore, in any manner contrary to the established laws of revenue, navigation, or commerce,) nor shall such officers take cognizance of the validity of such prizes; but they shall be at liberty to hoist sail, and depart as speedily as may be, and carry their said prizes to the place mentioned in their commissions or patents, which the commanders of the said ships of war or privateers shall be obliged to shew. No shelter or refuge shall be given in their ports, to such as have made a prize upon the subjects or citizens of either of the said parties; but if forced, by stress of weather, or the dangers of the sea, to enter therein, particular care shall be taken to hasten their departure, and to cause them to retire as soon as possible. Nothing in this treaty contained shall, however, be construed, or operate contrary to former and existing public treaties with other Sovereigns or States. But the two parties agree, that while they continue in amity, neither of them will in future make any treaty that shall be inconsistent with this or the preceding article.

Neither of the said parties shall permit the ships or goods belonging to the subjects or citizens of the other, to be taken within cannon shot of the coast, nor in any of the bays, ports, or rivers of their territories, by ships of war, or others having commission from any Prince, Republic, or State whatever. But in case it should so happen, the party whose territorial rights shall thus have been violated, shall use his utmost endeavors to obtain from the offending party, full and ample satisfaction for the vessel or vessels so taken, whether the same be vessels of war or merchant vessels.

ARTICLE XXVI.

If at any time a rupture should take place, (which God forbid) between His Majesty and the United States, the merchants and others of each of the two nations, residing in the dominions of the other, shall have the privilege of remaining and continuing their trade, so long as they behave peaceably and commit no offence against the laws; and in case their conduct should render them suspected, and the respective Governments should think proper to order them to remove, the term of twelve months from the publication of the order, shall be allowed them for that purpose, to remove their families, effects, and property; but this favor shall not be extended to those who shall act contrary to the established laws: and for greater certainty, it is declared, that such rupture shall not be deemed to exist while negotiations for accommodating differences shall be depending, nor until the respective ambassadors or ministers, if such there shall be, shall be recalled, or sent home on account of such differences, and not on account of personal misconduct, according to the nature and degrees of which both parties retain their respective rights, either to request the recall, or immediately to send home the ambassador or minister of the other, and that without prejudice to their mutual friendship and good understanding.

ARTICLE XXVII.

It is further agreed, that His Majesty and the United States, on mutual requisitions by them respectively, or by their respective ministers or officers authorized to make

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the same, will deliver up to justice all persons who, being charged with murder or forgery, committed within the jurisdiction of either, shall seek an asylum within any of the countries of the other, provided that this shall only be done on such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the offence had there been committed. The expense of such apprehension and delivery, shall be borne and defrayed by those who make the requisition and receive the fugitive.

ARTICLE XXVIII.

It is agreed, that the first ten articles of this treaty shall be permanent, and that the subsequent articles, except the twelfth, shall be limited in their duration to twelve years, to be computed from the day on which the ratifications of this treaty shall be exchanged, but subject to this condition: that whereas, the said twelfth article will expire by the limitation therein contained, at the end of two years from the signing of the preliminary or other articles of peace, which shall terminate the present war in which His Majesty is engaged, it is agreed, that proper measures shall by concert be taken, for bringing the subject of that article into amicable treaty and discussion, so early before the expiration of the said term, as that new arrangements on that head may, by that time, be perfected and ready to take place. But if it should unfortunately happen that His Majesty and the United States should not be able to agree on such new arrangements, in that case, all the articles of this treaty, except the first ten, shall then cease and expire together.

Lastly. This treaty, when the same shall have been ratified by His Majesty and by the President of the United States, by and with the advice and consent of their Senate, and the respective ratifications mutually exchanged, shall be binding and obligatory on His Majesty and on the said States, and shall be by them respectively executed and observed, with punctuality and the most sincere regard to good faith; and whereas it will be expedient, in order the better to facilitate intercourse, and obviate difficulties, that other articles be proposed and added to this treaty, which articles, from want of time and other circumstances, cannot now be perfected, it is agreed that the said parties will, from time to time, readily treat of and concerning such articles, and will sincerely endeavor so to form them as that they may conduce to mutual convenience, and tend to promote mutual satisfaction and friendship; and that the said articles, after having been duly ratified, shall be added to, and make a part of this treaty. In faith whereof, we, the undersigned, Ministers Plenipotentiary of His Majesty the King of Great Britain, and the United States of America, have signed this present treaty, and have caused to be affixed thereto the seal of our arms.

Done at London, this nineteenth day of November, one thousand seven hundred and ninety-four.

[L. s.] GRENVILLE,
[L. s.] JOHN JAY.

TREATY OF PEACE AND AMITY,

BETWEEN HIS BRITANNIC MAJESTY AND THE UNITED STATES OF AMERICA

*Treaty of Peace
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His Britannic Majesty and the United States of America, desirous of terminating the war which has unhappily subsisted between the two countries, and of restoring, upon principles of perfect reciprocity, peace, friendship, and good understanding between them, have, for that purpose, appointed their respective Plenipotentiaries; that is to say,

His Britannic Majesty, on his part, has appointed the Right Honorable James Lord Gambier, late Admiral of the White, now Admiral of the Red Squadron of His Majesty's Fleet, Henry Goulburn, Esquire, a Member of the Imperial Parliament and Under Secretary of State, and William Adams, Esquire, Doctor of Civil Laws; and the President of the United States, by and with the advice and consent of the Senate thereof, has appointed John Quincy Adams, James A. Bayard, Henry Clay, Jonathan Russell, and Albert Gallatin, citizens of the United States; who, after a reciprocal communication of their respective full powers, have agreed upon the following articles:

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ARTICLE I.

There shall be a firm and universal peace between His Britannic Majesty and the United States, and between their respective countries, territories, cities, towns, and people of every degree, without exception of places or persons. All hostilities, both by sea and land, shall cease, as soon as this treaty shall have been ratified by both parties as hereinafter mentioned. All territory, places, and possessions whatsoever, taken by either party from the other during the war, or which may be taken after the signing of this treaty, excepting only the islands hereinafter mentioned, shall be restored without delay, and without causing any destruction, or carrying away any of the artillery or other public property originally captured in the said forts or places, and which shall remain therein upon the exchange of the ratifications of this treaty, or any slaves or other private property; and all archives, records, deeds, and papers, either of a public nature, or belonging to private persons, which, in the course of the war, may have fallen into the hands of the officers of either party, shall be, as far as may be practicable, forthwith restored, and delivered to the proper authorities and persons to whom they respectively belong. Such of the islands in the Bay of Passamaquoddy as are claimed by both parties, shall remain in the possession of the party in whose occupation they may be at the time of the exchange of the ratifications of this treaty, until the decision respecting the title to the said islands shall have been made, in conformity with the fourth article of this treaty. No disposition made by this treaty, as to such possession of the islands and territories claimed by both parties, shall, in any manner whatever, be construed to affect the right of either.

ARTICLE II.

Immediately after the ratifications of this treaty by both parties, as hereinafter mentioned, orders shall be sent to the armies, squadrons, officers, subjects, and citizens, of the two Powers, to cease from all hostilities; and to prevent all causes of complaint which might arise on account of the prizes which may be taken at sea after the said ratifications of this treaty, it is reciprocally agreed, that all vessels and effects which may be taken after the space of twelve days from the said ratifications, upon all parts of the coast of North America, from the latitude of twenty-three degrees north to the latitude of fifty degrees north, and as far eastward in the Atlantic Ocean as the thirty-sixth degree of west longitude from the Meridian of Greenwich, shall be restored on each side: that the time shall be thirty days in all other parts of the Atlantic Ocean north of the equinoctial line or equator; and the same time for the British and Irish Channels, for the Gulf of Mexico, and all parts of the West Indies; forty days for the North Seas, for the Baltic, and for all parts of the Mediterranean; sixty days for the Atlantic Ocean south of the equator, as far as the latitude of the Cape of Good Hope; ninety days for every other part of the world south of the equator, and one hundred and twenty days for all other parts of the world without exception.

ARTICLE III.

All prisoners of war taken on either side, as well by land as by sea, shall be restored as soon as practicable after the ratifications of this treaty, as hereinafter men-

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tioned, on their paying the debts which they may have contracted during their captivity. The two Contracting Parties, respectively, engage to discharge, in specie, the advances which may have been made by the other, for the sustenance and maintenance of such prisoners.

ARTICLE IV.

Whereas it was stipulated by the second article in the treaty of peace of one thousand seven hundred and eighty-three, between His Britannic Majesty and the United States of America, that the boundary of the United States should comprehend "all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid boundaries between Nova Scotia on the one part and East Florida on the other, shall, respectively, touch the Bay of Fundy and the Atlantic Ocean, excepting such islands as now are or heretofore have been within the limits of Nova Scotia;" and whereas the several Islands in the Bay of Passamaquoddy, which is part of the Bay of Fundy, and the Island of Grand Menan, in the said Bay of Fundy, are claimed by the United States, as being comprehended within their aforesaid boundaries, which said islands are claimed as belonging to His Britannic Majesty, as having been at the time of, and previous to, the aforesaid treaty of one thousand seven hundred and eighty-three, within the limits of the Province of Nova Scotia: In order, therefore, finally to decide upon these claims, it is agreed, that they shall be referred to two Commissioners, to be appointed in the following manner, viz: one Commissioner shall be appointed by His Britannic Majesty, and one by the President of the United States, by and with the advice and consent of the Senate thereof: and the said two Commissioners so appointed, shall be sworn impartially to examine and decide upon the said claims, according to such evidence as shall be laid before them on the part of His Britannic Majesty and of the United States, respectively. The said Commissioners shall meet at St. Andrews, in the province of New Brunswick, and shall have power to adjourn to such other place or places as they shall think fit. The said Commissioners shall, by a declaration or report, under their hands and seals, decide to which of the two Contracting Parties the several islands aforesaid do respectively belong, in conformity with the true intent of the said treaty of peace of one thousand seven hundred and eighty-three. And if the said Commissioners shall agree in their decision, both parties shall consider such decision as final and conclusive. It is further agreed, that, in the event of the two Commissioners differing upon all or any of the matters so referred to them, or in the event of both or either of the said Commissioners refusing, or declining, or wilfully omitting to act as such, they shall make, jointly or separately, a report or reports, as well to the Government of His Britannic Majesty as to that of the United States, stating, in detail, the points on which they differ, and the grounds upon which their respective opinions have been formed, or the grounds upon which they, or either of them, have so refused, declined, or omitted to act. And His Britannic Majesty and the Government of the United States hereby agree to refer the report or reports of the said Commissioners to some friendly Sovereign or State, to be then named for that purpose, and who shall be requested to decide on the differences which may be stated in the said report or reports, or upon the report of one Commissioner, together with the grounds upon which the other Commissioner shall have refused, declined, or omitted to act, as the case may be. And if the Commissioner so refusing, declining, or omitting to act, shall also wilfully omit to state the grounds upon which he has so done, in such manner that the said statement may be referred to such friendly Sovereign or State, together with the report of such other Commissioner, then such Sovereign or State shall decide, ex parte, upon the said report alone. And His Britannic Majesty and the Government of the United States engage to consider the decision of such friendly Sovereign or State to be final and conclusive on all the matters so referred.

ARTICLE V.

Whereas, neither that point of the highlands lying due north from the source of the River St. Croix, and designated in the former Treaty of Peace between the two Powers, as the north-west angle of Nova Scotia, nor the north-westernmost head of Connecticut River, has yet been ascertained; and whereas that part of the boundary line between the dominions of the two Powers, which extends from the source of the River St. Croix directly north to the above-mentioned north-west angle of Nova Scotia, thence along the said highlands which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River, thence down along the middle of that river to the forty-fifth degree of north latitude, thence by a line due west on said latitude until it strikes the River Iroquois or Cataraguay, has not yet been surveyed: It is agreed that, for these several purposes, two Commissioners shall be appointed, sworn, and authorized to act exactly in the manner directed with respect to those mentioned in the next preceding article, unless otherwise specified in the present article. The said Commissioners shall meet at St. Andrews, in the province of New Brunswick, and shall have power to adjourn to such other place or places as they shall think fit. The said Commissioners shall have power to ascertain and determine the points above-mentioned, in conformity with the provisions of the said Treaty of Peace of one thousand seven hundred and eighty-three, and shall cause the boundary aforesaid, from the source of the River St. Croix to the River Iroquois or Cataraguay, to be surveyed and marked according to the said provisions. The said Commissioners shall make a map of the said boundary, and annex to it a declaration under their hands and seals, certifying it to be the true map of the said boundary, and particularizing the latitude and longitude of the north-west angle of Nova Scotia, of the north-westernmost head of Connecticut River, and of such other points of the said boundary as they may deem proper. And both parties agree to consider such map and declaration as finally and conclusively fixing the said boundary. And in the event of the said two Commissioners differing, or both or either of them refusing, declining, or wilfully omitting to act, such reports, declarations, or statements shall be made by them, or either of them, and such reference to a friendly Sovereign or State shall be made, in all respects, as in the latter part of the fourth article is contained, and in as full a manner as if the same was herein repeated.

ARTICLE VI.

Whereas, by the former Treaty of Peace, that portion of the boundary of the United States, from the point where the forty-fifth degree of north latitude strikes the River Iroquois or Cataraguay to the lake Superior, was declared to be "along the middle of said river into lake Ontario, through the middle of said lake until it strikes the communication by water between that lake and lake Erie, thence along the middle of said communication into lake Erie, through the middle of said lake, until it arrives at the water-communication into lake Huron, thence through the middle of said lake to the water-communication between that lake and lake Superior;" and whereas doubts have arisen what was the middle of the said river, lakes, and water-communications, and whether certain islands, lying in the same, were within the dominions of His Britannic Majesty or of the United States: In order, therefore, finally to decide these doubts, they shall be referred to two Commissioners, to be appointed, sworn, and authorized to act exactly in the manner directed with respect to those mentioned in the next preceding article, unless otherwise specified in this present article. The said Commissioners shall meet, in the first instance, at Albany, in the State of New York, and shall have power to adjourn to such other place or places as they shall think fit. The said Commissioners shall, by a report or declaration, under their hands and seals, designate the boundary through the said river, lakes, and water-communications, and decide to which of the two Contracting Parties the several islands, lying within the said rivers,

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Appendix. lakes, and water communications, do respectively belong, in conformity with the true intent of the said treaty of one thousand seven hundred and eighty-three; and both parties agree to consider such designation and decision as final and conclusive. And, in the event of the said two Commissioners differing, or both or either of them refusing, declining, or wilfully omitting to act, such reports, declarations, or statements shall be made by them, or either of them, and such reference to a friendly Sovereign or State shall be made, in all respects, as in the latter part of the fourth article is contained, and in as full a manner as if the same was herein repeated.

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ARTICLE VII.

It is further agreed, that the said two last mentioned Commissioners, after they shall have executed the duties assigned to them in the preceding article, shall be, and they are hereby authorized, upon their oaths, impartially to fix and determine, according to the true intent of the said Treaty of Peace of one thousand seven hundred and eighty-three, that part of the boundary between the dominions of the two Powers, which extends from the water communication between lake Huron and lake Superior to the most north-western point of the Lake of the Woods; to decide to which of the two parties the several islands lying in the lakes, water communications, and rivers, forming the said boundary, do respectively belong, in conformity with the true intent of the said Treaty of Peace of one thousand seven hundred and eighty-three, and to cause such parts of the said boundary as require it, to be surveyed and marked. The said Commissioners shall, by a report or declaration, under their hands and seals, designate the boundary aforesaid, state their decision on the points thus referred to them, and particularize the latitude and longitude of the most north-western point of the Lake of the Woods, and of such other parts of the said boundary as they may deem proper. And both parties agree to consider such designation and decision as final and conclusive. And, in the event of the said two Commissioners differing, or both or either of them refusing, declining, or wilfully omitting to act, such reports, declarations, or statements shall be made by them, or either of them, and such reference to a friendly Sovereign or State, shall be made, in all respects, as in the latter part of the fourth article is contained, and in as full a manner as if the same was herein repeated.

ARTICLE VIII.

The several Boards of two Commissioners, mentioned in the four preceding articles, shall, respectively, have power to appoint a Secretary, and to employ such Surveyors, or other persons, as they shall judge necessary. Duplicates of all their respective reports, declarations, statements, and decisions, and of their accounts, and of the Journal of their proceedings, shall be delivered, by them, to the agents of His Britannic Majesty and to the agents of the United States, who may be respectively appointed and authorized to manage the business on behalf of their respective Governments. The said Commissioners shall be respectively paid in such manner as shall be agreed between the two Contracting Parties, such agreement being to be settled at the time of the exchange of the ratifications of this treaty; and all other expenses attending the said commissions shall be defrayed equally by the two parties. And in the case of death, sickness, resignation, or necessary absence, the place of every such Commissioner, respectively, shall be supplied in the same manner as such Commissioner was first appointed; and the new Commissioner shall take the same oath or affirmation, and do the same duties. It is further agreed between the two Contracting Parties, that in case any of the islands mentioned in any of the preceding articles, which were in the possession of one of the parties, prior to the commencement of the present war between the two countries, should, by the decision of any of the Boards of Commissioners aforesaid, or of the Sovereign or State so referred to, as in the four next preceding articles contained, fall within the dominions of the other party, all grants of land made previ-

ous to the commencement of the war, by the party having had such possession, shall be as valid as if such island or islands had, by such decision or decisions, been adjudged to be within the dominions of the party having had such possession.

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ARTICLE IX.

The United States of America engage to put an end, immediately after the ratification of the present treaty, to hostilities with all the tribes or nations of Indians with whom they may be at war at the time of such ratification, and forthwith to restore to such tribes or nations, respectively, all the possessions, rights, and privileges, which they may have enjoyed, or been entitled to, in one thousand eight hundred and eleven, previous to such hostilities. *Provided, always,* That such tribes or nations shall agree to desist from all hostilities against the United States of America, their citizens, and subjects, upon the ratification of the present treaty being notified to such tribes or nations, and shall so desist accordingly. And His Britannic Majesty engages, on his part, to put an end, immediately after the ratification of the present treaty, to hostilities with all the tribes or nations of Indians with whom he may be at war at the time of such ratification, and forthwith to restore to such tribes or nations, respectively, all the possessions, rights and privileges, which they may have enjoyed, or been entitled to, in one thousand eight hundred and eleven, previous to such hostilities: *Provided, always,* That such tribes or nations shall agree to desist from all hostilities against His Britannic Majesty, and his subjects, upon the ratification of the present treaty being notified to such tribes or nations, and shall so desist accordingly.

ARTICLE X.

Whereas the traffic in slaves is irreconcilable with the principles of humanity and justice, and whereas both His Majesty and the United States are desirous of continuing their efforts to promote its entire abolition, it is hereby agreed, that both the Contracting Parties shall use their best endeavors to accomplish so desirable an object.

ARTICLE XI.

This treaty, when the same shall have been ratified on both sides, without alteration by either of the Contracting Parties, and the ratifications mutually exchanged, shall be binding on both parties; and the ratifications shall be exchanged at Washington, in the space of four months from this day, or sooner, if practicable.

In faith whereof, we, the respective Plenipotentiaries, have signed this treaty, and have thereunto affixed our seals.

Done in triplicate, at Ghent, the twenty-fourth day of December, one thousand eight hundred and fourteen.

| | |
|---------|--------------------|
| [L. S.] | GAMBIER, |
| [L. S.] | HENRY GOULBURN, |
| [L. S.] | WILLIAM ADAMS, |
| [L. S.] | JOHN QUINCY ADAMS, |
| [L. S.] | J. A. BAYARD, |
| [L. S.] | H. CLAY, |
| [L. S.] | JONATHAN RUSSELL, |
| [L. S.] | ALBERT GALLATIN, |

CONVENTION

Treaties and Conventions between the United States and Great Britain.

Arbitration Convention, 29th September, 1827.

BETWEEN THE UNITED STATES OF AMERICA AND HIS MAJESTY THE KING OF THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND, CONCLUDED AT LONDON ON THE TWENTY-NINTH OF SEPTEMBER, 1827.

Whereas it is provided by the fifth article of the Treaty of Ghent, that in case the Commissioners appointed under that article for the settlement of the boundary line therein described, should not be able to agree upon such boundary line, the report or reports of those Commissioners, stating the points on which they had differed, should be submitted to some friendly Sovereign or State, and that the decision given by such Sovereign or State, on such points of difference, should be considered by the Contracting Parties as final and conclusive: That case having now arisen, and it having therefore become expedient to proceed to, and regulate the reference, as above described, the United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland, have, for that purpose, named their Plenipotentiaries: that is to say, the President of the United States has appointed Albert Gallatin, their Envoy Extraordinary and Minister Plenipotentiary at the Court of His Britannic Majesty, and his said Majesty, on his part, has appointed the Right Honorable Charles Grant, a Member of Parliament, a Member of his said Majesty's Most Honorable Privy Council, and President of the Committee of the Privy Council for Affairs of Trade and Foreign Plantations, and Henry Unwin Addington, Esquire, who, after having exchanged their respective full powers, found to be in due and proper form, have agreed to and concluded the following articles:—

ARTICLE I.

It is agreed that the points of difference which have arisen in the settlement of the boundary between the American and British dominions, as described in the fifth article of the Treaty of Ghent, shall be referred, as therein provided, to some friendly Sovereign or State, who shall be invited to investigate, and make a decision upon, such points of difference.

The two Contracting Powers engage to proceed in concert, to the choice of such friendly Sovereign or State, as soon as the ratifications of this Convention shall have been exchanged, and to use their best endeavors to obtain a decision, if practicable, within two years after the arbiter shall have signified his consent to act as such.

ARTICLE II.

The reports and documents thereunto annexed, of the Commissioners appointed to carry into execution the fifth article of the Treaty of Ghent, being so voluminous and complicated as to render it improbable that any Sovereign or State should be willing or able to undertake the office of investigating and arbitrating upon them, it is hereby agreed to substitute for those reports, new and separate statements of the respective cases, severally drawn up by each of the Contracting Parties, in such form and terms as each may think fit.

The said statements, when prepared, shall be mutually communicated to each other by the Contracting Parties; that is to say, by the United States to His Britannic Majesty's Minister or Chargé d'Affaires at Washington, and by Great Britain to the Minister or Chargé d'Affaires of the United States at London, within fifteen months after the exchange of the ratifications of the present Convention.

After such communication shall have taken place, each party shall have the power of drawing up a second and definitive statement, if it thinks fit so to do, in reply to the statement of the other party so communicated, which definitive statements shall also be mutually communicated in the same manner as aforesaid to each other, by the

Contracting Parties, within twenty-one months after the exchange of ratifications of the present Convention. *Appendix.*
No. 1.

ARTICLE III.

Each of the Contracting Parties shall, within nine months after the exchange of ratifications of this Convention, communicate to the other, in the same manner as aforesaid, all the evidence intended to be brought in support of its claim, beyond that which is contained in the reports of the Commissioners or papers thereunto annexed, and other written documents laid before the commission under the fifth article of the Treaty of Ghent.

Treaties and Conventions between the United States and Great Britain.

Arbitration Convention, 24th September, 1871.

Each of the Contracting Parties shall be bound, on the application of the other party, made within six months after the exchange of the ratifications of this Convention, to give authentic copies of such individually specified acts of a public nature, relating to the territory in question, intended to be laid as evidence before the arbiter, as have been issued under the authority, or are in the exclusive possession, of each party.

No maps, surveys, or topographical evidence, of any description, shall be adduced by either party beyond that which is hereinafter stipulated, nor shall any fresh evidence of any description be adduced or adverted to by either party, other than that mutually communicated or applied for as aforesaid.

Each party shall have full power to incorporate in, or annex to, either its first or second statement, any portion of the reports of the Commissioners or papers thereunto annexed, and other written documents laid before the commission under the fifth article of the Treaty of Ghent, or of the other evidence mutually communicated or applied for, as above provided, which it may think fit.

ARTICLE IV.

The map called Mitchell's Map, by which the framers of the treaty of 1783 are acknowledged to have regulated their joint and official proceedings, and the Map A, which has been agreed on by the Contracting Parties, as a delineation of the water-courses, and of the boundary lines in reference to the said water-courses, as contended for by each party respectively, and which has accordingly been signed by the above named Plenipotentiaries at the same time with this Convention, shall be annexed to the statements of the Contracting Parties, and be the only maps that shall be considered as evidence, mutually acknowledged by the Contracting Parties, of the topography of the country.

It shall, however, be lawful for either party to annex to its respective first statement, for the purposes of general illustration, any of the maps, surveys, or topographical delineations which were filed with the Commissioners under the fifth article of the Treaty of Ghent, any engraved map heretofore published, and also a transcript of the above mentioned Map A, or of a section thereof, in which transcript each party may lay down the highlands or other features of the country as it shall think fit; the water-courses, and the boundary lines, as claimed by each party, remaining as laid down in the said Map A.

But this transcript, as well as all the other maps, surveys, or topographical delineations, other than the Map A, and Mitchell's Map, intended to be thus annexed, by either party, to the respective statements, shall be communicated to the other party, in the same manner as aforesaid, within nine months after the exchange of the ratifications of this Convention, and shall be subject to such objections and observations as the other Contracting Party may deem it expedient to make thereto, and shall annex to his first statement, either in the margin of such transcript, map or maps, or otherwise.

ARTICLE V.

All the statements, papers, maps and documents above-mentioned, and which shall have been mutually communicated as aforesaid, shall, without any addition, subtrac-

Appendix.
No. 1.

Treaties and Con-
ventions between
the United States
and Great Britain.
Arbitration Con-
vention, 20th Sep-
tember, 1827.

tion or alteration whatsoever, be jointly and simultaneously delivered in to the arbitrating Sovereign or State, within two years after the exchange of ratifications of this Convention, unless the arbiter should not, within that time, have consented to act as such; in which case, all the said statements, papers, maps and documents, shall be laid before him within six months after the time when he shall have consented so to act. No other statements, papers, maps, or documents, shall ever be laid before the arbiter, except as hereinafter provided.

ARTICLE VI.

In order to facilitate the attainment of a just and sound decision on the part of the arbiter, it is agreed that in case the said arbiter should desire further elucidation or evidence in regard to any specific point contained in any of the said statements submitted to him, the requisition for such elucidation or evidence shall be simultaneously made to both parties, who shall thereupon be permitted to bring further evidence, if required, and to make, each, a written reply to the specific questions submitted by the said arbiter, but no further; and such evidence and replies shall be immediately communicated by each party to the other.

And in case the arbiter should find the topographical evidence, laid as aforesaid before him, insufficient for the purposes of a sound and just decision, he shall have the power of ordering additional surveys to be made of any portions of the disputed boundary line or territory, as he may think fit, which surveys shall be made at the joint expense of the Contracting Parties, and be considered as conclusive by them.

ARTICLE VII.

The decision of the arbiter, when given, shall be taken as final and conclusive; and it shall be carried without reserve into immediate effect, by Commissioners appointed for that purpose by the Contracting Parties.

ARTICLE VIII.

This Convention shall be ratified, and the ratifications shall be exchanged, in nine months from the date hereof, or sooner, if possible.

In witness whereof, we, the respective Plenipotentiaries, have signed the same, and have affixed thereto the seals of our arms.

Done at London the twenty-ninth day of September, in the year of our Lord one thousand eight hundred and twenty-seven.

| | |
|---------|------------------------|
| [L. S.] | ALBERT GALLATIN, |
| [L. S.] | CHARLES GRANT, |
| [L. S.] | HENRY UNWIN ADDINGTON. |

APPENDIX No. II.

DECLARATION OF THE COMMISSIONERS

UNDER

THE FIFTH ARTICLE OF THE TREATY OF 1794.

RESPECTING THE

TRUE RIVER SAINT CROIX.

25TH OCTOBER, 1798;—AND

*Decision of the Commissioners under the Fourth Article of the Treaty of Ghent—
respecting the Islands in the Bay of Passamaquoddy, 24th November, 1817.*

DECLARATION of the Commissioners under the Fifth Article of the Treaty of 1794; ^{Appendix.}
between the United States and Great Britain, respecting the true River St. Croix, ^{No. 2.}
by Thomas Barclay, David Howell, and Egbert Benson, Commissioners appointed
in pursuance of the 5th Article of the Treaty of Amity, Commerce and Navigation, <sup>Declaration and
Decision of the
Commissioners
under the Treaty
of 1794 and 1814.</sup>
between His Britannic Majesty and the United States of America, finally to decide
the question, “What River was truly intended under the name of the River Saint
“Croix, mentioned in the Treaty of Peace between His Majesty and the United <sup>Declaration under
the Treaty of
1794.</sup>
“States, and forming a part of the boundary therein described.”

DECLARATION.

We, the said Commissioners, having been sworn “impartially to examine and decide the said question, according to such evidence as should respectively be laid before us, on the part of the British Government, and of the United States,” and having heard the evidence which has been laid before us, by the agent of His Majesty and the agent of the United States, respectively, appointed and authorized to manage the business on behalf of the respective Governments, have decided, and hereby do decide, the River, hereinafter particularly described and mentioned, to be the River truly intended under the name of the River Saint Croix, in the said Treaty of Peace, and forming a part of the boundary therein described; that is to say, the mouth of the said River is in Passamaquoddy Bay, at a point of land called Joe’s Point, about one mile northward from the northern part of Saint Andrew’s Island, and in the latitude of forty-five degrees five minutes and five seconds north, and in the longitude of sixty-seven degrees twelve minutes and thirty seconds west, from the Royal Observatory at Greenwich, in Great Britain, and three degrees fifty-four minutes and fifteen seconds east from Harvard College, in the University of Cambridge, in the State of Massachusetts, and the course of the said river up from its said mouth, is northerly to a point of land called the Devil’s Head, then turning the said point, is westerly to where it divides into two streams, the one coming from the westward, and the other coming from the northward, having the Indian name of Cheputnatecook or Chibuitecook, as the

Appendix.
No. 2.

Declaration and
Decision of the
Commissioners
under the Treaty
of 1791 and 1814.

Declaration under
the Treaty of
1794.

same may be variously spelt, then up the said stream, so coming from the northward to its source, which is at a stake near a Yellow Birch Tree, hooped with iron, and marked S. T. and I. H. 1797, by Samuel Titeomb and John Harris, the Surveyors employed to survey the above-mentioned stream, coming from the northward. And the said River is designated on the Map hereunto annexed, and hereby referred to as farther descriptive of it, by the letters A B C D E F G H I K and L, the letter A being at its said mouth, and the letter L being at its said source; and the course and distance of the said source from the Island, at the confluence of the above-mentioned two streams, is, as laid down on the same Map, north five degrees and about fifteen minutes west, by the magnet, and about forty-eight miles and one quarter.

In testimony whereof, we have hereunto set our hands and seals, at Providence, in the State of Rhode Island, the twenty-fifth day of October, in the year one thousand seven hundred and ninety-eight.

| | |
|---------|-----------------|
| [L. S.] | THOMAS BARCLAY, |
| [L. S.] | DAVID HOWELL, |
| [L. S.] | EGBERT BENSON. |

Witness, Ep. WINSLOW, *Secretary to the Commissioners.*

DECISION OF THE COMMISSIONERS

UNDER THE

FOURTH ARTICLE OF THE TREATY OF GHENT.

RESPECTING THE

ISLANDS IN THE BAY OF PASSAMAQUODDY,

24TH NOVEMBER, 1817.

Extract from the Journal of the Commissioners, under the Fourth Article of the Treaty of Ghent.

CITY OF NEW-YORK, MONDAY, 24TH NOVEMBER, 1817.

Decision of the
Commissioners
under the Treaty
of 1814

The Board met this day, pursuant to adjournment.

The Commissioners having agreed upon the matters referred to them, executed their Decision thereupon in quadruplicate, in the words and manner following, viz:

By Thomas Barclay and John Holmes, Esquires, Commissioners appointed by virtue of the fourth article of the Treaty of Peace and Amity, between His Britannic Majesty and the United States of America, concluded at Ghent, on the twenty-fourth day of December, one thousand eight hundred and fourteen, to decide to which of the two Contracting Parties to the said Treaty, the several Islands in the Bay of Passamaquoddy, which is part of the Bay of Fundy, and the Island of Grand Menan, in the said Bay of Fundy, do respectively belong, in conformity with the true intent of the second article of the Treaty of Peace of one thousand seven hundred and eighty-three, between his said Britannic Majesty and the aforesaid United States of America:

We, the said Thomas Barclay and John Holmes, Commissioners as aforesaid, having been duly sworn impartially to examine and decide upon the said claims, according to such evidence as should be laid before us on the part of His Britannic Majesty and the United States, respectively, have decided, and do decide, that Moose Island, Dudley Island, and Frederick Island, in the Bay of Passamaquoddy, which is part of the Bay

of Fundy, do, and each of them does, belong to the United States of America, and we have also decided, and do decide, that all the other Islands, and each and every of them, in the said Bay of Passamaquoddy, which is part of the Bay of Fundy, and the Island of Grand Menan, in the said Bay of Fundy, do belong to his said Britannic Majesty, in conformity with the true intent of the said second article of said treaty of one thousand seven hundred and eighty three.

Appendix.
No. 2.

Declaration and
Decision of the
Commissioners
under the Treaty
of 1794 and 1814.

Decision of the
Commissioners
under the Treaty
of 1814.

In faith and testimony whereof, we have set our hands and affixed our seals, at the City of New York, in the State of New York, in the United States of America, this twenty fourth day of November, in the year of our Lord one thousand eight hundred and seventeen.

[L. s.]

THOMAS BARCLAY,

[L. s.]

JOHN HOLMES.

Witness,

JAMES T. AUSTIN,

Agent of the United States.

ANTH: BARCLAY,

Secretary.

APPENDIX, No. III.

COMMISSION TO THOMAS CARLETON.

AS

CAPTAIN GENERAL AND GOVERNOR IN CHIEF OF NEW-BRUNSWICK.

16TH AUGUST, 4. GEO: III. 1784.

Eighth part of Patents in the twenty-fourth year of King George the Third

Appendix,
No. 3.

THOMAS CARLETON Esq

Governor of New Brunswick

Commission of
Thomas Carleton,
as Governor of
New Brunswick,
18th August, 1784.

George the Third by the grace of God of Great Britain France and Ireland King Defender of the Faith and so forth to our trusty and well beloved Thomas Carleton Esq Greeting

Wee reposing especial trust and confidence in the prudence courage and loyalty of you the said Thomas Carleton of our especial grace certain knowledge and mere motion have thought fit to constitute and appoint you the said *Thomas Carleton to be our Captain General and Governor in Chief of our province of New Brunswick bounded on the westward by the mouth of the River Saint Croix by the said River to its source and by a line drawn due north from thence to the southern boundary of our province of Quebec to the northward by the said boundary as far as the western extremity of the Bay des Chaleurs to the eastward by the said Bay and the Gulf of St. Lawrence, to the bay called Bay Verte to the south by a line in the center of the Bay of Fundy from the river Saint Croix aforesaid to the mouth of the Musquat River by the said River to its source and from thence by a due east line across the Isthmus into the Bay Verte to join the eastern line above described including all islands within six leagues of the coast* with all the rights members and appurtenances whatsoever thereunto belonging and wee do hereby require and command you to do and execute all things in due manner that shall belong unto your said command and the trust wee have reposed in you according to the several powers and authorities granted or appointed you by the present commission and instructions herewith given you or by such further powers instructions and authorities as shall at any time hereafter be granted or appointed you under our signet and sign manual or by our order in our privy council and according to such reasonable laws and statutes as shall hereafter be made or agreed upon by you with the advice and consent of our council and the assembly of our said province under your government when such assembly shall be called in such manner and form as is hereafter expressed and our will and pleasure is that you the said Thomas Carleton after the publication of these our letters patent do take the oaths appointed to be taken by an act passed in the first year of the reign of King George the First intituled "An act for the better security of His Majesty's person and government and the succession of the crown in the heirs of the late Princess Sophia being protestants and for extinguishing the hopes of the pretended Prince of Wales, and his open and secret abettors" as altered and explained by an act passed in the sixth year of our reign intituled "An act for altering the oath of abjuration and the assurance and for

amending so much of an act of the seventh year of her late Majesty Queen Anne intituled 'An act for the improvement of the union of the two kingdoms as after the time therein limited requires the delivery of certain lists and copies therein mentioned to persons indicted of high treason or misprison of treason' as also that you make and subscribe the declaration mentioned in an act of Parliament made in the twenty-fifth year of the reign of King Charles the Second intituled "An act for preventing dangers which may happen from popish recusants" and likewise that you take the usual oath for the due execution of the office and trust of our Captain General and Governor in Chief of our said province for the due and impartial administration of justice and further that you take the oath required to be taken by Governors of Plantations to do their utmost that the several laws relating to trade and the plantations be observed all which said oaths and declaration our council in our said province or any five of the members thereof have hereby full power and authority and are required to tender and administer unto you and in your absence to our Lieutenant Governor if there be any upon the place all which being duly performed you shall administer unto each of the members of our said council as also to our Lieutenant Governor if there be any upon the place the said oaths mentioned in the said first recited act of Parliament altered as above as also cause them to make and subscribe the aforementioned declaration and administer to them the oath for the due execution of their places and trusts And wee do hereby give and grant unto you full power and authority to suspend any of the members of our said council from sitting voting and assisting therein if you shall find just cause for so doing And if it shall at any time happen that by the death departure out of our said province suspension of any of our said councillors or otherwise there shall be a vacancy in our said council (any five whereof wee do hereby appoint to be a quorum) our will and pleasure is that you signify the same unto us by the first opportunity that we may under our signet and sign manual constitute and appoint others in their stead But that our affairs at that distance may not suffer for want of a due number of councillors if ever it shall happen that there be less than nine of them residing in our said province wee do hereby give and grant unto you the said Thomas Carleton full power and authority to choose as many persons out of the principal freeholders inhabitants thereof as shall make up the full number of our said council to be nine and no more which persons so chosen and appointed by you shall be to all intents and purposes councillors in our said province until either they shall be confirmed by us or that by the nomination of others by us under our sign manual and signet our said council shall have nine or more persons in it And wee do hereby give and grant unto you the said Thomas Carleton full power and authority with the advice and consent of our said council to be appointed as aforesaid so soon as the situation and circumstances of our province under your government will admit thereof and when and so often as need shall require to summon and call general assemblies of the freeholders and settlers in the province under your government in such manner and according to such further powers instructions and authorities as shall at any time hereafter be granted or appointed you under our signet and sign manual or by our order in our privy council And our will and pleasure is that the persons thereupon duly elected by the major part of the freeholders of the respective counties and places and so returned shall before their sitting take the oaths mentioned in the first recited act of Parliament altered as above as also make and subscribe the aforementioned declaration which oaths and declarations you shall commissionate fit persons under our seal of New Brunswick to tender and administer unto them and until the same shall be so taken and subscribed no person shall be capable of sitting though elected And wee do hereby declare that the persons so elected and qualified shall be called and deemed the General Assembly of that our province of New Brunswick And that you the said Thomas Carleton with the advice and consent of our said Council and Assembly or the major

Appendix.
No. 3.

Commission of
Thomas Carleton,
as Governor of
New Brunswick,
16th August, 1731.

Appendix.
No. 3.

Commission of
Thomas Carleton,
as Governor of
New Brunswick,
6th August, 1784

part of them respectively shall have full power and authority to make constitute and ordain laws statutes and ordinances for the public peace welfare and good government of our said province and of the people and inhabitants thereof and such others as shall resort thereto and for the benefit of us our heirs and successors which said laws statutes and ordinances are not to be repugnant but as near as may be to the laws and statutes of this our kingdom of Great Britain *Provided* that all such laws statutes and ordinances of what nature or duration soever be within three months or sooner after the making thereof transmitted to us under our seal of New Brunswick for our approbation or disallowance of the same as also duplicates thereof by the next conveyance And in case any or all of the said laws statutes and ordinances not before confirmed by us shall at any time be disallowed and not approved and so signified by us our heirs or successors under [our] or their sign manual and signet or by order of our or their Privy Council unto you the said Thomas Carleton or to the Commander in Chief of the said province for the time being then such and so many of the said laws statutes and ordinances as shall be so disallowed and not approved shall from thenceforth cease determine and become utterly void and of none effect any thing to the contrary thereof notwithstanding And to the end that nothing may be passed or done by our said Council or Assembly to the prejudice of us our heirs and successors we will and ordain that you the said Thomas Carleton shall have and enjoy a negative voice in making and passing all laws statutes and ordinances as aforesaid and you shall and may likewise from time to time as you shall judge it necessary adjourn prorogue and dissolve all general Assemblies as aforesaid and we do hereby authorize and empower you to keep and use the Public Seal which will be herewith delivered to you or shall hereafter be sent to you for sealing all things whatsoever which shall pass the Great Seal of our said Province And we do by these presents give and grant unto you the said Thomas Carleton full power and authority with the advice and consent of our said Council to erect constitute and establish such and so many courts of judicature and public justice within our said Province as you and they shall think fit and necessary for the hearing and determining of all causes as well criminal as civil according to law and equity and for awarding execution thereupon with all reasonable and necessary powers authorities fees and privileges belonging thereunto as also to appoint and commissionate fit persons in the several parts of your Government to administer the oaths mentioned in the first recited act of Parliament altered as above as also to tender and administer the aforesaid declaration unto such persons belonging to the said Courts as shall be obliged to take the same And we do hereby authorize and empower you to constitute and appoint Judges and in cases requisite Commissioners of Oyer and Terminer Justices of the Peace and other necessary Officers and Ministers in our said Province for the better administration of justice and putting the laws in execution and to administer or cause to be administered unto them such oath or oaths as are usually given for the due execution and performance of offices and places and for the clearing of truth in judicial causes And we do hereby give and grant unto you full power and authority where you shall see cause or shall judge any offender or offenders in criminal matters or for any fines or forfeitures due unto us fit objects of our mercy to pardon all such offenders and to remit all such offences fines and forfeitures treasons and wilful murder only excepted in which uses [cases] you shall likewise have power upon extraordinary occasions to grant reprieves to the offenders until and to the intent our royal pleasure may be known therein And whereas it belongeth to us in right of our royal prerogative to have the custody of Idiots and their estates and to take the profits thereof to our own use finding them necessities and also to provide for the custody of Lunatics and their estates without taking the profits thereof to our own use And whereas, while such Idiots and Lunatics and their estates remain under our immediate care great trouble and charges may arise to such as shall have occasion to resort unto us for directions re-

specting such Idiots and Lunaticks and their estates and considering that writs of inquiry of Idiots and Lunaticks are to issue out of our several Courts of Chancery as well in our Provinces in America as within this our Kingdom respectively and the inquisitions thereupon taken are returnable in those Courts we have thought fit to entrust you with the care and commitment of the custody of the said Idiots and Lunaticks and their estates And wee do by these presents give and grant unto you full power and authority without expecting any further special warrant from us from time to time to give order and warrant for the preparing of grants of the custodies of such Idiots and Lunaticks and their estates as are or shall be found by inquisition thereof taken or to be taken and returnable into our Court of Chancery and thereupon to make and pass grants and commitments under our Great Seal of our Province of New Brunswick of the custodies of all and every such Idiots and Lunaticks and their estates to such person or persons suitors in that behalf as according to the rules of law and the use and practice in those and the like cases you shall judge meet for that trust the said grants and commitments to be made in as manner and form or as nearly as may be as hath been heretofore used and accustomed in making the same under the Great Seal of Great Britain and to contain such apt and convenient covenants provisions and agreements on the part of the committees and grantees to be performed and such security to be by them given as shall be requisite and needful Wee do by these presents authorize and empower you to collate any person or persons to any churches chapels or other ecclesiastical benefices within our said Province as often as any of them shall happen to be void And we do hereby give and grant unto you the said Thomas Carleton by yourself or by your captains and commanders by you to be authorized full power and authority to levy arm muster command and employ all persons whatsoever residing within our said province and as occasion shall serve to march from one place to another or to embark them for the resisting and withstanding of all enemies pirates and rebels both at land and sea and to transport such forces to any of our plantations in America if necessity shall require for the defence of the same against the invasion or attempts of any of our enemies and such enemies pirates and rebels (if there shall be occasion) to pursue and prosecute in or out of the limits of our said Province and Plantations or any of them and (if it shall so please God) to vanquish apprehend and take them and being taken according to law put to death or keep and preserve them alive at your discretion and to execute martial law in time of invasion or at other times when by law it may be executed and to do and execute all and every other thing or things which to our Captain General and Governor in Chief doth or ought of right to belong And wee do hereby give and grant unto you full power and authority by and with the advice and consent of our said Council of New Brunswick to erect raise and build in our said Province such and so many forts and platforms castles cities boroughs towns and fortifications as you by the advice aforesaid shall judge necessary and the same or any of them to fortify and furnish with ordnance, ammunition and all sorts of arms fit and necessary for the securing and defence of our said Province and by the advice aforesaid the same again or any of them to demolish or dismantle as may be most convenient And forasmuch as divers mutinies and disorders may happen by persons shipped and employed at sea during the time of war and to the end that such as shall be shipped and employed at sea during the time of war may be better governed and ordered we do hereby give and grant unto you the said Thomas Carleton full power and authority to constitute and appoint captains lieutenants masters of ships and other commanders and officers and to grant unto such captains lieutenants masters of ships and other commanders and officers commissions to execute the law martial during the time of war according to the directions of an act passed in the twenty-second year of the reign of our late royal Grandfather intituled "An act for amending explaining and reducing into one act of Parliament the laws relating to the government of his Majesty's ships

Appendix.
No. 3.

Commission of
Thomas Carleton,
as Governor of
New Brunswick,
16th August, 1784

Appendix. vessels and forces by sea as the same is altered by an act passed in the nineteenth
 No. 3. year of our reign intituled "An act to explain and amend an act made in the
 twenty-second year of the reign of his late Majesty King George the Second intit-
 tuled "An act for amending explaining and reducing into one act of Parliament
 the laws relating to the government of his Majesty's ships, vessels and forces by sea"
 and to use such proceedings authorities punishments and executions upon any offen-
 der or offenders who shall be mutinous seditious disorderly or any way unruly either
 at sea or during the time of their abode or residence in any of the ports harbours or
 bays of our said Province as the case shall be found to require according to the martial
 law and the said directions during the time of war as aforesaid Provided that nothing
 herein contained shall be construed to the enabling you or any by your authority to
 hold plea or have and jurisdiction of any offence cause matter or thing commit-
 ted or done upon the high sea or within any of the havens rivers or creeks o-
 our said Province under your government by any Captain Commander Lieutenant,
 Master Officer Seaman Soldier or person whatsoever who shall be in our actual
 service and pay in or on board any of our ships of war or other vessels acting by im-
 mediate commission or warrant by our Commissioners for executing the office of our
 High Admiral or from our High Admiral of Great Britain for the time being under
 the seal of our Admiralty but that such Captain Commander Lieutenant Master
 Officer Seamen Soldier or other person so offending shall be left to be proceeded
 against and tried as their offences shall require either by commission under our great
 seal of Great Britain as the statute of the twenty-eighth of Henry the Eighth directs
 or by commission from our said Commissioners for executing the office of our High Ad-
 miral or from our High Admiral of Great Britain for the time being according to the
 aforementioned act intituled "An act for amending explaining and reducing into one
 act of Parliament the laws relating to the government of His Majesty's ships
 vessels and forces at sea" as the same is altered by an act passed in the nineteenth
 year of our reign intituled "An act to explain and amend an act made in the twenty
 second year of the reign of his late Majesty King George the Second intituled "An
 act for amending explaining and reducing into one act of Parliament the laws relat-
 ing to the government of His Majesty's ships vessels and forces by sea Provided
 nevertheless that all disorders and misdemeanors committed on shore by any Cap-
 tain Commander or Lieutenant Master Officer Seaman Soldier or other person
 whatsoever belonging to any of our ships of war or other vessels acting by immedi-
 ate commission or warrant from our said Commissioners for executing the office of our
 High Admiral or from our High Admiral of Great Britain for the time being under
 the seal of our Admiralty may be tried and punished according to the laws of the
 place where any such disorders offences and misdemeanors shall be committed on
 shore notwithstanding such offender be in our actual service and borne in our pay
 on board any such our ships of war or other vessels acting by immediate commis-
 sion or warrant from our said Commissioners for executing the office of High Admi-
 ral or our High Admiral of Great Britain for the time being as aforesaid so as he
 shall not receive any protection for the avoiding of justice for such offences commit-
 ted on shore from any pretence of his being employed in our service at sea And
 our further will and pleasure is that all public money raised or which shall be raised
 by any act hereafter to be made within our said Province be issued out by warrant
 from you by and with the advice and consent of our said Council and disposed
 of by you for the support of the Government or for such other purpose as
 shall be particularly directed in and by such act and not otherwise And wee
 do likewise give and grant unto you full power and authority by and with
 the advice and consent of our said Council to settle and agree with the in-
 habitants of our Province for such lands tenements and hereditaments as now are or
 hereafter shall be in our power to dispose of and them to grant to any person or per-

Commission of
 Thomas Carleton,
 as Governor of
 New Brunswick,
 16th August, 1781.

sons upon such terms and under such quit rents services and acknowledgements as wee by our instructions given you herewith or which wee may hereafter give you shall think fit to appoint order and direct which said grants are to pass and be sealed with our seal of New Brunswick and being entered upon record by such officer or officers as shall be appointed thereunto shall be good and effectual in law against us our heirs and successors And wee do hereby give you the said Thomas Carleton full power to order and appoint fairs marts and markets as also such and so many ports and harbours bays and havens and other places for the convenience and security of shipping and for the better loading and unlading of goods and merchandizes as by you with the advice and consent of the said Council shall be thought fit and necessary And wee do hereby require and command all officers and ministers civil and military and all other inhabitants of our said Province to be obedient aiding and assisting unto you the said Thomas Carleton in the execution of this our commission and of the powers and authorities herein contained and in case of your death or absence out of our said Province to be obedient aiding and assisting unto such person as shall be appointed by us to be our Lieutenant Governor or Commander in Chief of our said Province To whom wee do therefore, by these presents, give and grant all and singular the powers and authorities herein granted to be by him executed and enjoyed during our pleasure, or until your arrival within our said Province And if upon your death or absence out of our said Province there be no person upon the place commissioned and appointed by us to be our Lieutenant Governor or Commander in Chief of the said Province our will and pleasure is that the eldest Councillor who shall be at the time of your death or absence residing within our said Province shall take upon him the administration of the government and execute our said commission and instructions and the several powers and authorities therein contained in the same manner and to all intents and purposes as other our Governor or Commander in Chief should or ought to do in case of your absence until your return or in all cases until our further pleasure be known therein And wee do hereby declare ordain and appoint that you, the said Thomas Carleton shall and may hold execute and enjoy the office and place of our Captain General and Governor in Chief in and over our said Province of New Brunswick with all its rights members and appurtenances whatsoever together with all and singular the powers and authorities hereby granted unto you for and during our will and pleasure In witness &c

Witness ourself at Westminster the sixteenth day of August in the twenty-fourth year of our reign

By Writ of Privy Seal

This is a true copy from the original record remaining in the Chapel of the Rolls having been examined.

JOHN KIPLING.

Appendix.
No. 3.

Commission of
Thomas Carleton,
as Governor of
New Brunswick,
16th August, 1781.

APPENDIX, No. IV.

ACT OF THE BRITISH PARLIAMENT

TO DIVIDE

THE PROVINCE OF QUEBEC INTO TWO SEPARATE PROVINCES.

XXXI GEO: III. CAP. 31, 1791.

AND

British Order in Council, by which the Province of Quebec was divided into two separate Governments, of Upper and Lower Canada, 24th August, 1791.

Appendix. *An act to repeal certain parts of an act passed in the fourteenth year of his Majesty's reign, intituled, An act for making more effectual provision for the government of the Province of Quebec, in North America; and to make further provision for the government of the said Province.*

No. 4.

British Acts to divide the Province of Quebec.

Act of Parliament, XXXI Geo: III. Cap. 31.

Whereas, an act was passed in the fourteenth year of the reign of his present Majesty, intituled, An act for making more effectual provision for the government of the Province of Quebec, in North America: and whereas the said act is in many respects inapplicable to the present condition and circumstances of the said Province: and whereas it is expedient and necessary that further provision should now be made for the good government and prosperity thereof: may it therefore please your most excellent Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, That so much of the said act as in any manner relates to the appointment of a Council for the affairs of the said Province of Quebec, or to the power given by the said act to the said Council, or to the major part of them, to make ordinances for the peace, welfare, and good government of the said Province, with the consent of his Majesty's Governor, Lieutenant Governor, or Commander in Chief, for the time being, shall be and the same is hereby repealed.

II. And whereas his Majesty has been pleased to signify, by his message to both Houses of Parliament, his royal intention to divide his Province of Quebec into two separate Provinces, to be called the Province of Upper Canada and the Province of Lower Canada, be it enacted by the authority aforesaid, That there shall be within each of the said Provinces, respectively, a Legislative Council and an Assembly, to be severally composed and constituted in the manner hereinafter described; and that in each of the said Provinces, respectively, his Majesty, his heirs or successors, shall have power, during the continuance of this act, by and with the advice and consent of the Legislative Council and assembly of such Provinces, respectively, to make laws for the peace, welfare, and good government thereof, such laws not being repugnant to this act; and that all such laws, being passed by the Legislative Council and Assembly of either of the said Provinces, respectively, and assented to by his Majesty, his heirs or

successors, or assented to in his Majesty's name, by such person as his Majesty, his heirs or successors, shall from time to time appoint to be the Governor, or Lieutenant Governor, of such Province, or by such person as his Majesty, his heirs or successors, shall from time to time appoint to administer the government within the same, shall be, and the same are hereby declared to be, by virtue of and under the authority of this act, valid and binding to all intents and purposes whatever, within the Province in which the same shall have been so passed.

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III. And be it further enacted by the authority aforesaid, That, for the purpose of constituting such Legislative Council, as aforesaid, in each of the said Provinces, respectively, it shall and may be lawful for his Majesty, his heirs or successors, by an instrument under his or their sign manual, to authorize and direct the Governor or Lieutenant Governor, or person administering the government in each of the said Provinces, respectively, within the time hereinafter mentioned, in his Majesty's name, and by an instrument under the great seal of such Province, to summon to the said Legislative Council, to be established in each of the said Provinces, respectively, a sufficient number of discreet and proper persons, being not fewer than seven, to the Legislative Council for the Province of *Upper Canada*, and not fewer than fifteen to the Legislative Council for the Province of *Lower Canada*; and that it shall also be lawful for his Majesty, his heirs or successors, from time to time, by an instrument under his or their sign manual, to authorize and direct the Governor or Lieutenant Governor, or person administering the government in each of the said Provinces, respectively, to summon to the Legislative Council of such Province, in like manner, such other person or persons as his Majesty, his heirs or successors, shall think fit; and that every person who shall be so summoned to the Legislative Council of either of the said Provinces, respectively, shall thereby become a member of such Legislative Council to which he shall have been so summoned.

IV. Provided always, and be it enacted by the authority aforesaid, That no person shall be summoned to the said Legislative Council, in either of the said Provinces, who shall not be of the full age of twenty-one years, and a natural-born subject of his Majesty, or a subject of his Majesty naturalized by act of the British Parliament, or a subject of his Majesty, having become such by the conquest and session of the province of Canada.

V. And be it further enacted by the authority aforesaid, That every member of each of the said Legislative Councils shall hold his seat therein for the term of his life, but subject, nevertheless, to the provisions hereinafter contained for vacating the same, in the cases hereinafter specified.

VI. And be it further enacted by the authority aforesaid, That whenever his Majesty, his heirs or successors, shall think proper to confer upon any subject of the crown of Great Britain, by letters patent under the great seal of either of the said Provinces, any hereditary title of honor, rank, or dignity of such Province, descendible according to any course of descent limited in such letters patent, it shall and may be lawful for his Majesty, his heirs or successors, to annex thereto, by the said letters patent, if his Majesty, his heirs or successors, shall so think fit, an hereditary right of being summoned to the Legislative Council of such Province, descendible according to the course of descent so limited with respect to such title, rank, or dignity; and that every person on whom such right shall be so conferred, or to whom such right shall severally so descend, shall thereupon be entitled to demand from the Governor, Lieutenant Governor, or person administering the government of such Province, his writ or summons to such Legislative Council, at any time after he shall have attained the age of twenty-one years, subject nevertheless to the provisions hereinafter contained.

VII. Provided always, and be it further enacted by the authority aforesaid, That when and so often as any person to whom such hereditary right shall have descended, shall, without the permission of his Majesty, his heirs or successors, signified to the

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vince of Quebec.

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Legislative Council of the Province by the Governor, Lieutenant Governor, or person administering the government there, have been absent from the said Province for the space of four years continually, at any time between the date of his succeeding to such right, and the time of his applying for such writ of summons, if he shall have been of the age of twenty-one years or upwards at the time of his so succeeding, or at any time between the date of his attaining the said age, and the time of his so applying, if he shall not have been of the said age at the time of his so succeeding; and also when, and so often as any such person shall at any time, before his applying for such writ of summons, have taken any oath of allegiance or obedience to any foreign prince or power, in every such case, such person shall not be entitled to receive any writ of summons to the Legislative Council by virtue of such hereditary right, unless his Majesty, his heirs or successors, shall at any time think fit, by instrument under his or their sign manual, to direct that such person shall be summoned to the said Council; and the Governor, Lieutenant Governor, or person administering the government in the said Provinces, respectively, is hereby authorized and required, previous to granting such writ of summons to any person so applying for the same, to interrogate such person upon oath, touching the said several particulars, before such executive council as shall have been appointed by his Majesty, his heirs or successors, within such Province, for the affairs thereof.

VIII. Provided also, and be it further enacted by the authority aforesaid, That, if any member of the Legislative Councils of either of the said Provinces, respectively, shall leave such Province, and shall reside out of the same for the space of four years, continually, without the permission of his Majesty, his heirs or successors, signified to such Legislative Council by the Governor or Lieutenant Governor, or person administering his Majesty's government there, or for the space of two years continually, without the like permission, or the permission of the Governor, Lieutenant Governor, or person administering the government of such Province, signified to such Legislative Council in the manner aforesaid; or if any such member shall take any oath of allegiance or obedience to any foreign prince or power, his seat in such Council shall thereby become vacant.

IX. Provided also, and be it further enacted by the authority aforesaid, That in every case where a writ of summons to such Legislative Council shall have been lawfully withheld from any person to whom such hereditary right as aforesaid shall have descended, by reason of such absence from the Province as aforesaid, or of his having taken an oath of allegiance or obedience to any foreign prince or power, and also in every case where the seat in such Council of any member thereof, having such hereditary right as aforesaid, shall have been vacated by reason of any of the causes hereinbefore specified, such hereditary right shall remain suspended during the life of such person, unless his Majesty, his heirs or successors, shall afterwards think fit to direct that he be summoned to such Council; but that on the death of such person, such right, subject to the provisions herein contained, shall descend to the person who shall next be entitled thereto, according to the course of descent limited in the letters patent by which the same shall have been originally conferred.

X. Provided also, and be it further enacted by the authority aforesaid, That if any member of either of the said Legislative Councils shall be attainted for treason in any court of law within any of his Majesty's dominions, his seat in such Council shall thereby become vacant, and any such hereditary right as aforesaid then vested in such person, or to be derived to any other persons through him, shall be utterly forfeited and extinguished.

XI. Provided also, and be it further enacted by the authority aforesaid, That whenever any question shall arise respecting the right of any person to be summoned to either of the said Legislative Councils, respectively, or respecting the vacancy of the seat in such Legislative Council of any person having been summoned thereto, every

such question shall, by the Governor or Lieutenant Governor of the Province, or by the person administering the government there, be referred to such Legislative Council, to be by the said Council heard and determined; and that it shall and may be lawful either for the person desiring such writ of summons, or respecting whose seat such question shall have arisen, or for his Majesty's Attorney General of such Province, in his Majesty's name, to appeal from the determination of the said council, in such ease, to his Majesty in his Parliament of Great Britain; and that the judgment thereon of his Majesty in his said parliament shall be final and conclusive to all intents and purposes whatever.

*Appendix:
No. 4.*

*British Acts to
divide the Pro-
vince of Quebec.*

*Acts of Parlia-
ment, XXVI. Geo.
III. Cap. 31.*

XII. And be it further enacted by the authority aforesaid, That the Governor or Lieutenant Governor of the said Provinces, respectively, or the person administering his Majesty's government therein, respectively, shall have power and authority, from time to time, by an instrument under the great seal of such Province, to constitute, appoint, and remove the Speakers of the Legislative Councils of such Provinces, respectively.

XIII. And be it further enacted by the authority aforesaid, That, for the purpose of constituting such assembly as aforesaid, in each of the said Provinces, respectively, it shall and may be lawful for his Majesty, his heirs or successors, by an instrument under his or their sign manual, to authorize and direct the Governor or Lieutenant Governor, or person administering the government in each of the said Provinces, respectively, within the time hereinafter mentioned, and thereafter from time to time, as occasion shall require, in his Majesty's name, and by an instrument under the great seal of such Province, to summon and call together an assembly in and for such Province.

XIV. And be it further enacted by the authority aforesaid, That for the purpose of electing the members of such assemblies, respectively, it shall and may be lawful for his Majesty, his heirs or successors by an instrument under his or their sign manual, to authorize the Governor or Lieutenant Governor of each of the said Provinces, respectively, or the person administering the government therein, within the time hereinafter mentioned, to issue a proclamation dividing such Province into districts, or counties, or circles, and towns or townships, and appointing the limits thereof, and declaring and appointing the number of representatives to be chosen by each of such districts, or counties, or circles, and towns or townships, respectively; and that it shall also be lawful for his Majesty, his heirs or successors, to authorize such Governor or Lieutenant Governor, or person administering the government, from time to time, to nominate and appoint proper persons to execute the office of returning officer in each of the said districts, or counties, or circles, and towns or townships, respectively; and that such division of the said provinces into districts, or counties, or circles, and towns or townships, and such declaration and appointment of the number of representatives to be chosen by each of the said districts, or counties, or circles, and towns or townships, respectively, and also such nomination and appointment of returning officers in the same, shall be valid and effectual to all the purposes of this act, unless it shall at any time be otherwise provided by any act of the Legislative Council and Assembly of the Province, assented to by his Majesty, his heirs or successors.

XV. Provided nevertheless, and be it further enacted by the authority aforesaid, That the provision herein-before contained, for empowering the Governor, Lieutenant Governor, or person administering the government of the said Provinces, respectively, under such authority as aforesaid, from his Majesty, his heirs or successors, from time to time, to nominate and appoint proper persons to execute the office of returning officer in the said districts, counties, circles, and towns or townships, shall remain and continue in force in each of the said Provinces, respectively, for the term of two years, from and after the commencement of this act, within such Province, and no longer; but subject, nevertheless, to be sooner repealed or varied by any act of the Legislative

Appendix. Council and Assembly of the Province, assented to by his Majesty, his heirs or successors.
No 4.

British Acts to
divide the Pro-
vince of Quebec.
Acts of Parlia-
ment, XXV Geo
III. Cap 34

XVI Provided always, and be it further enacted by the authority aforesaid, That no person shall be obliged to execute the said office of returning officer for any longer time than one year, or oftener than once, unless it shall at any time be otherwise provided by any act of the Legislative Council and Assembly of the Province, assented to by his Majesty, his heirs or successors.

XVII. Provided also, and be it enacted by the authority aforesaid, That the whole number of members to be chosen in the Province of Upper Canada shall not be less than sixteen, and that the whole number of members to be chosen in the Province of Lower Canada shall not be less than fifty.

XVIII. And be it further enacted by the authority aforesaid, That writs for the election of members to serve in the said Assemblies, respectively, shall be issued by the Governor, Lieutenant Governor, or person administering his Majesty's government within the said Provinces, respectively, within fourteen days after the sealing of such instrument as aforesaid, for summoning and calling together such Assembly, and that such writs shall be directed to the respective returning officers of the said districts, or counties, or circles, and towns or townships, and that such writs shall be made returnable within fifty days at farthest from the day on which they shall bear date, unless it shall at any time be otherwise provided by any act of the Legislative Council and Assembly of the Province, assented to by his Majesty, his heirs or successors; and that writs shall, in like manner and form, be issued for the election of members in the case of any vacancy which shall happen by the death of the person chosen, or by his being summoned to the Legislative Council of either Province, and that such writs shall be made returnable within fifty days at farthest, from the day on which they shall bear date, unless it shall at any time be otherwise provided by any act of the Legislative Council and Assembly of the Province, assented to by his Majesty, his heirs or successors; and that in the case of any such vacancy which shall happen by the death of the person chosen, or by reason of his being so summoned as aforesaid, the writ for the election of a new member shall be issued within six days after the same shall be made known to the proper office for issuing such writs of election.

XIX. And be it further enacted by the authority aforesaid, That all and every the returning officers so appointed as aforesaid, to whom any such writs as aforesaid, shall be directed, shall and they are hereby authorized and required duly to execute such writs.

XX. And be it further enacted by the authority aforesaid, That the members for the several districts, or counties, or circles of the said Provinces, respectively, shall be chosen by the majority of votes of such persons as shall severally be possessed, for their own use and benefit, of lands or tenements within such district, or county, or circle, as the case shall be, such lands being by them held in freehold, or in fief, or in roture, or by certificate derived under the authority of the Governor and Council of the Province of Quebec, and being of the yearly value of forty shillings sterling, or upwards, over and above all rents and charges payable out of, or in respect of the same; and that the members for the several towns or townships within the said Provinces, respectively, shall be chosen by the majority of votes of such persons as either shall severally be possessed, for their own use and benefit, of a dwelling house and lot of ground in such town or township, such dwelling house and lot of ground being by them held in like manner as aforesaid, and being of the yearly value of five pounds sterling, or upwards, or as having been resident within the said town or township for the space of twelve calendar months next before the date of the writ of summons for the election, shall *bona fide* have paid one year's rent for the dwelling house in which they shall have so resided, at the rate of ten pounds sterling per annum, or upwards.

XXI. Provided always, and be it further enacted by the authority aforesaid, That *Appendix.*
 no person shall be capable of being elected a member to serve in either of the said As- *No. 4.*
 semblies, or of sitting or voting therein, who shall be a member of either of the said *British Acts to*
 Legislative Councils to be established as aforesaid, in the said two Provinces, or who *divide the Pro-*
 shall be a minister of the church of England, or a minister, priest, ecclesiastic, or *vince of Quebec.*
 teacher, either according to the rites of the church of Rome, or under any other form *Acts of Parlia-*
 or profession of religious faith or worship. *ment, XXXI Geo*
III. Cap. 31

XXII. Provided also, and be it further enacted by the authority aforesaid, That no person shall be capable of voting at any election of a member to serve in such Assembly, in either of the said Provinces, or of being elected at any such election, who shall not be of the full age of twenty-one years, and a natural-born subject of his Majesty, or a subject of his Majesty naturalized by act of the British Parliament, or a subject of his Majesty, having become such by the conquest and cession of the Province of Canada.

XXIII. And be it also enacted by the authority aforesaid, That no person shall be capable of voting at any election of a member to serve in such assembly, in either of the said Provinces, or of being elected at any such election, who shall have been attainted for treason or felony in any court of law within any of his Majesty's dominions, or who shall be within any description of persons disqualified by any act of the Legislative Council and Assembly of the Province, assented to by his Majesty, his heirs or successors.

XXIV. Provided also, and be it further enacted by the authority aforesaid, That every voter, before he is admitted to give his vote at any such election, shall, if required by any of the candidates, or by the returning officer, take the following oath, which shall be administered in the English or French language, as the case may require: I, A. B. do declare and testify, in the presence of Almighty God, that I am, to the best of my knowledge and belief, of the full age of twenty-one years, and that I have not voted before at this election. And that every such person shall also, if so required as aforesaid, make oath, previous to his being admitted to vote, that he is, to the best of his knowledge and belief, duly possessed of such lands and tenements, or of such a dwelling house and lot of ground, or that he has *bona fide* been so resident, and paid such rent for his dwelling house, as entitles him, according to the provisions of this act, to give his vote at such election for the county, or district, or circle, or for the town or township for which he shall offer the same.

XXV. And be it further enacted by the authority aforesaid, That it shall and may be lawful for his Majesty, his heirs or successors, to authorize the Governor, Lieutenant Governor, or person administering the government within each of the said Provinces, respectively, to fix the time and place of holding such elections, giving not less than eight days' notice of such time, subject nevertheless, to such provisions as may hereafter be made in these respects by any act of the Legislative Council and Assembly of the Province, assented to by his Majesty, his heirs or successors.

XXVI. And be it further enacted by the authority aforesaid, That it shall and may be lawful for his Majesty, his heirs or successors, to authorize the Governor or Lieutenant Governor of each of the said Provinces, respectively, or the person administering the government therein, to fix the places and times of holding the first and every other session of the Legislative Council and Assembly of such Province, giving due and sufficient notice thereof, and to prorogue the same from time to time, and to dissolve the same, by proclamation or otherwise, whenever he shall judge it necessary or expedient.

XXVII. Provided always, and be it enacted by the authority aforesaid, That the said Legislative Council and Assembly, in each of the said Provinces, shall be called together once at the least, in every twelve calendar months, and that every Assembly shall continue for four years from the day of the return of the writs for choosing the

Appendix. same, and no longer, subject nevertheless, to be sooner prorogued or dissolved by the Governor or Lieutenant Governor of the Province, or person administering his Majesty's government therein.

British Acts to
divide the Pro-
vince of Quebec.

Acts of Parlia-
ment, VIII Geo.
III. Cap. 31.

XXVIII. And be it further enacted by the authority aforesaid, That all questions which shall arise in the said Legislative Councils or Assemblies, respectively, shall be decided by the majority of voices of such members as shall be present; and that in all cases where the voices shall be equal, the Speaker of such Council or Assembly, as the case shall be, shall have a casting voice.

XXIX. Provided always, and be it enacted by the authority aforesaid, That no member, either of the Legislative Council or Assembly, in either of the said Provinces, shall be permitted to sit, or to vote therein, until he shall have taken and subscribed the following oath, either before the Governor or Lieutenant Governor of such Province, or person administering the government therein, or before some person or persons authorized by the said Governor or Lieutenant Governor, or other person as aforesaid, to administer such oath, and that the same shall be administered in the English or French language, as the case may require :—I, A. B. do sincerely promise and swear that I will be faithful, and bear true allegiance to his Majesty King George, as lawful sovereign of the kingdom of Great Britain, and of these Provinces dependent on, and belonging to the said kingdom ; and that I will defend him to the utmost of my power, against all traitorous conspiracies and attempts whatever, which shall be made against his person, crown, and dignity ; and that I will do my utmost endeavour, to disclose and make known to his Majesty, his heirs or successors, all treasons and traitorous conspiracies and attempts which I shall know to be against him, or any of them : and all this I do swear without any equivocation, mental evasion, or secret reservation, and renouncing all pardons and dispensations from any person or power whatever to the contrary. So help me God.

XXX. And be it further enacted by the authority aforesaid, That whenever any bill which has been passed by the Legislative Council, and by the House of Assembly, in either of the said Provinces, respectively, shall be presented for his Majesty's assent, to the Governor or Lieutenant Governor of such Province, or to the person administering his Majesty's government therein, such Governor or Lieutenant Governor, or person administering the government, shall, and he is hereby authorized and required to declare, according to his discretion, but subject nevertheless, to the provisions contained in this act, and to such instructions as may, from time to time, be given in that behalf by his Majesty, his heirs or successors, that he assents to such bill in his Majesty's name, or that he withholds his Majesty's assent from such bill, or that he reserves such bill for the signification of his Majesty's pleasure thereon.

XXXI. Provided always, and be it further enacted by the authority aforesaid, That whenever any bill, which shall have been so presented for his Majesty's assent, to such Governor, Lieutenant Governor, or person administering the government, shall, by such Governor, Lieutenant Governor, or person administering the government, have been assented to in his Majesty's name, such Governor, Lieutenant Governor, or person as aforesaid, shall, and he is hereby required, by the first convenient opportunity, to transmit to one of his Majesty's principal Secretaries of State, an authentic copy of such bill so assented to; and that it shall and may be lawful, at any time within two years after such bill shall have been so received by such Secretary of State, for his Majesty, his heirs or successors, by his or their order in Council, to declare his or their disallowance of such bill, and that such disallowance, together with a certificate, under the hand and seal of such Secretary of State, testifying the day on which such bill was received as aforesaid, being signified by such Governor, Lieutenant Governor, or person administering the government, to the Legislative Council and Assembly of such Province, or by proclamation, shall make void and annul the same, from and after the date of such signification.

XXXII. And be it further enacted by the authority aforesaid, That no such bill, which shall be so reserved for the signification of his Majesty's pleasure thereon, shall have any force or authority within either of the said Provinces, respectively, until the Governor or Lieutenant Governor, or person administering the government, shall signify, either by speech or message, to the Legislative Council and Assembly of such Province, or by proclamation, that such bill has been laid before his Majesty in Council, and that his Majesty has been pleased to assent to the same; and that an entry shall be made, in the journals of the said Legislative Council of every such speech, message or proclamation; and a duplicate thereof, duly attested, shall be delivered to the proper officer, to be kept amongst the public records of the Province: and that no such bill, which shall be so reserved as aforesaid, shall have any force or authority within either of the said Provinces, respectively, unless his Majesty's assent thereto shall have been so signified as aforesaid, within the space of two years from the day on which such bill shall have been presented for his Majesty's assent to the Governor, Lieutenant Governor, or person administering the government of such Province.

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British Acts to divide the Province of Quebec
Acts of Parliament, XXXI Geo III. Cap. 31.

XXXIII. And be it further enacted by the authority aforesaid, That all laws, statutes, and ordinances, which shall be in force on the day to be fixed, in the manner herein-after directed for the commencement of this act, within the said Provinces, or either of them, or in any part thereof respectively, shall remain and continue to be of the same force, authority, and effect, in each of the said Provinces, respectively, as if this act had not been made, and as if the said Province of Quebec had not been divided; except in so far as the same are expressly repealed or varied by this act, or in so far as the same shall, or may hereafter, by virtue of and under the authority of this act, be repealed or varied by his Majesty, his heirs or successors, by and with the advice and consent of the Legislative Councils and Assemblies of the said Provinces, respectively, or in so far as the same may be repealed or varied by such temporary laws or ordinances as may be made in the manner hereinafter specified.

XXXIV. And whereas, by an ordinance passed in the Province of Quebec, the Governor and Council of the said Province were constituted a court of civil jurisdiction, for hearing and determining appeals in certain cases therein specified, be it further enacted by the authority aforesaid, That the Governor, or Lieutenant Governor, or person administering the government of each of the said Provinces, respectively, together with such executive council as shall be appointed by his Majesty, for the affairs of such Province, shall be a court of civil jurisdiction within each of the said Provinces, respectively, for hearing and determining appeals within the same, in the like cases, and in the like manner and form, and subject to such appeal therefrom, as such appeals might before the passing of this act, have been heard and determined by the Governor and Council of the Province of Quebec; but subject, nevertheless, to such further, or other provisions as may be made in this behalf, by any act of the Legislative Council and Assembly of either of the said Provinces, respectively, assented to by his Majesty, his heirs or successors.

XXXV. And whereas, by the above-mentioned act, passed in the fourteenth year of the reign of his present Majesty, it was declared, that the clergy of the church of Rome, in the Province of Quebec, might hold, receive, and enjoy their accustomed dues and rights, with respect to such persons only as should profess the said religion; provided nevertheless, that it should be lawful for his Majesty, his heirs or successors, to make such provision out of the rest of the said accustomed dues and rights, for the encouragement of the Protestant religion, and for the maintenance and support of a Protestant clergy within the said Province, as he or they should from time to time, think necessary and expedient: *and whereas, by his Majesty's royal instructions, given under his Majesty's royal sign manual, on the third day of January, in the year of our Lord one thousand seven hundred and seventy-five, to Guy Carleton, esquire, now Lord Dorehester, at that time his Majes-*

Appendix. *ty's Captain General and Governor in Chief in and over his Majesty's Province of*
 No. 4. *Quebec*, his Majesty was pleased, amongst other things, to direct, "that no incum-

British Acts to
 divide the Pro-
 vince of Quebec.

Act of Parlia-
 ment, XXXI Geo.
 3. Cap. 31.

bent professing the religion of the church of Rome, appointed to any parish in the said Province, should be entitled to receive any tythes for lands or possessions occupied by a Protestant, but that such tythes should be received by such persons as the said Guy Carleton, esquire, his Majesty's Captain General and Governor in Chief in and over his Majesty's said Province of Quebec, should appoint and should be reserved in the hands of his Majesty's Receiver General of the said Province, for the support of a Protestant clergy in his Majesty's said Province, to be actually resident within the same, and not otherwise, according to such directions as the said Guy Carleton, esquire, his Majesty's Captain General and Governor in Chief, in and over his Majesty's said Province, should receive from his Majesty in that behalf; and that in like manner all growing rents and profits of a vacant benefice should, during such vacancy, be reserved for, and applied to the like uses:" and whereas, his Majesty's pleasure has likewise been signified to the same effect in his Majesty's royal instructions, given in like manner to Sir Frederic Haldimand, knight of the most honorable order of the Bath, late his Majesty's Captain General and Governor in Chief in and over his Majesty's said Province of Quebec; and also in his Majesty's royal instructions, given in like manner to the said right honorable Guy, Lord Dorchester, now his Majesty's Captain General and Governor in Chief in and over his Majesty's said Province of Quebec: be it enacted by the authority aforesaid, That the said declaration and Provision contained in the said above-mentioned act, and also the said provision, so made by his Majesty in consequence thereof, by his instructions above recited, shall remain and continue to be of full force and effect in each of the said two Provinces of Upper Canada, and Lower Canada respectively, except in so far as the said declaration or provisions, respectively, or any part thereof, shall be expressly varied or repealed by any act or acts which may be passed by the Legislative Council and Assembly of the said Provinces, respectively, and assented to by his Majesty, his heirs or successors, under the restriction herein-after provided.

XXXVI. And whereas his Majesty has been graciously pleased, by message to both houses of Parliament, to express his royal desire to be enabled to make a permanent appropriation of lands in the said Provinces, for the support and maintenance of a Protestant clergy within the same, in proportion to such lands as have been already granted within the same by his Majesty: and whereas his Majesty has been graciously pleased, by his said message, further to signify his royal desire that such provision may be made, with respect to all future grants of land within the said Provinces, respectively, as may best conduce to the due and sufficient support and maintenance of a Protestant clergy within the said Provinces, in proportion to such increase as may happen in the population and cultivation thereof: therefore, for the purpose of more effectually fulfilling his Majesty's gracious intentions as aforesaid, and of providing for the due execution of the same in all time to come, be it enacted by the authority aforesaid, That it shall and may be lawful for his Majesty, his heirs or successors, to authorize the Governor or Lieutenant Governor of each of the said Provinces, respectively, or the person administering the government therein, to make, from and out of the lands of the crown within such Provinces, such allotment and appropriation of lands for the support and maintenance of a Protestant clergy within the same, as may bear a due proportion to the amount of such lands within the same as have at any time been granted by or under the authority of his Majesty: and that whenever any grant of lands within either of the said Provinces shall hereafter be made, by or under the authority of his Majesty, his heirs or successors, there shall at the same time be made, in respect of the same, a proportionable allotment and appropriation of lands for the above-mentioned purpose, within the town-

ship or parish to which such lands so to be granted shall appertain or be annexed, or as nearly adjacent thereto as circumstances will admit; and that no such grant shall be valid or effectual unless the same shall contain a specification of the lands so allotted and appropriated, in respect of the lands to be thereby granted; and that such lands, so allotted and appropriated, shall be, as nearly as the circumstances and nature of the case will admit, of the like quality as the lands in respect of which the same are so allotted and appropriated, and shall be, as nearly as the same can be estimated at the time of making such grant, equal in value to the seventh part of the lands so granted.

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vince of Quebec.

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ment, XXX Geo:
III. Cap. 31.

XXXVII. And be it further enacted by the authority aforesaid, That all and every the rents, profits or emoluments, which may at any time arise from such lands so allotted and appropriated as aforesaid, shall be applicable solely to the maintenance and support of a protestant clergy within the Province in which the same shall be situated, and to no other use or purpose whatever.

XXXVIII. And be it further enacted by the authority aforesaid, That it shall and may be lawful for his Majesty, his heirs or successors, to authorize the Governor or Lieutenant Governor of each of the said Provinces, respectively, or the person administering the government therein, from time to time, with the advice of such executive council as shall have been appointed by his Majesty, his heirs or successors, within such province, for the affairs thereof, to constitute and erect, within every township or parish which now is, or hereafter may be formed, constituted, or erected within such Province, one or more parsonage or rectory, or parsonages or rectories, according to the establishment of the church of England; and from time to time, by an instrument under the great seal of such Province, to endow every such parsonage or rectory with so much or such part of the lands so allotted and appropriated as aforesaid, in respect of any lands within such township or parish, which shall have been granted subsequent to the commencement of this act, or of such lands as may have been allotted and appropriated for the same purpose, by or in virtue of any instruction which may be given by his Majesty, in respect of any lands granted by his Majesty before the commencement of this act, as such Governor, Lieutenant Governor, or person administering the government, shall, with the advice of the said Executive Council, judge to be expedient under the then existing circumstances of such township or parish.

XXXIX. And be it further enacted by the authority aforesaid, That it shall and may be lawful for his Majesty, his heirs or successors, to authorize the Governor, Lieutenant Governor, or person administering the government of each of the said Provinces, respectively, to present to every such parsonage or rectory, an incumbent or minister of the church of England, who shall have been duly ordained according to the rites of the said church, and to supply, from time to time, such vacancies as may happen therein; and that every person so presented to any such parsonage or rectory, shall hold and enjoy the same, and all rights, profits, and emoluments thereunto belonging or granted, as fully and amply, and in the same manner, and on the same terms and conditions, and liable to the performance of the same duties, as the incumbent of a parsonage or rectory in England.

XL. Provided always, and be it further enacted by the authority aforesaid, That every such presentation of an incumbent or minister to any such parsonage or rectory, and also the enjoyment of any such parsonage or rectory, and of the rights, profits, and emoluments thereof, by any such incumbent or minister, shall be subject and liable to all rights of institution, and all other spiritual and ecclesiastical jurisdiction and authority, which have been lawfully granted by his Majesty's royal letters patent to the Bishop of Nova Scotia, or which may hereafter, by his Majesty's royal authority, be lawfully granted or appointed to be administered and executed within the said Provinces, or either of them respectively, by the said Bishop of Nova Scotia, or by any other person or persons, according to the laws and canons of the church of England, which are lawfully made and received in England.

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vince of Quebec.

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ment, XXX Geo.
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XLI. Provided always, and be it further enacted by the authority aforesaid, That the several provisions herein-before contained, respecting the allotment and appropriation of lands for the support of a protestant clergy within the said Provinces, and also respecting the constituting, erecting, and endowing parsonages or rectories within the said Provinces, and also respecting the presentation of incumbents or ministers to the same, and also respecting the manner in which such incumbents or ministers shall hold and enjoy the same, shall be subject to be varied or repealed by any express provisions for that purpose, contained in any act or acts which may be passed by the Legislative Council and Assembly of the said Provinces, respectively, and assented to by his Majesty, his heirs or successors, under the restriction herein-after provided.

XLII. Provided nevertheless, and be it further enacted by the authority aforesaid, That whenever any act or acts shall be passed by the Legislative Council and Assembly of either of the said Provinces, containing any provisions to vary or repeal the above recited declaration and provision contained in the said act, passed in the fourteenth year of the reign of his present Majesty; or to vary or repeal the above-recited provision contained in his Majesty's royal instructions, given on the third day of January in the year of our Lord one thousand seven hundred and seventy-five, to the said Guy Carleton, esquire, now Lord Dorchester; or to vary or repeal the provisions herein-before contained for continuing the force and effect of the said declaration and provisions; or to vary or repeal any of the several provisions herein-before contained, respecting the allotment and appropriation of lands for the support of a protestant clergy within the said Provinces; or respecting the constituting, erecting, or endowing parsonages or rectories within the said Provinces; or respecting the presentation of incumbents or ministers to the same; or respecting the manner in which such incumbents or ministers shall hold and enjoy the same; and also, that whenever any act or acts shall be so passed, containing any provisions which shall in any manner relate to, or affect the enjoyment or exercise of any religious form or mode of worship; or shall impose or create any penalties, burthens, disabilities, or disqualifications in respect of the same; or shall, in any manner relate to or affect the payment, recovery, or enjoyment of any of the accustomed dues or rights herein-before mentioned; or shall in any manner relate to the granting, imposing, or recovering any other dues, or stipends, or emoluments whatever, to be paid to, or for the use of any minister, priest, ecclesiastic, or teacher, according to any religious form or mode of worship, in respect of his said office or function; or shall in any manner relate to, or affect the establishment or discipline of the church of England, amongst the ministers and members thereof within the said Provinces; or shall in any manner relate to, or affect the King's prerogative touching the granting the waste lands of the crown within the said Provinces; every such act or acts shall, previous to any declaration or signification of the King's assent thereto, be laid before both Houses of Parliament in Great Britain and that it shall not be lawful for his Majesty, his heirs or successors, to signify his or their assent to any such act or acts, until thirty days after the same shall have been laid before the said houses, or to assent to any such act or acts, in case either House of Parliament shall, within the said thirty days, address his Majesty, his heirs or successors, to withhold his or their assent from such act or acts; and that no such act shall be valid or effectual to any of the said purposes, within either of the said Provinces, unless the Legislative Council and Assembly of such Province shall, in the session in which the same shall have been passed by them, have presented to the Governor, Lieutenant Governor, or person administering the government of such Province, an address or addresses, specifying that such act contains provisions for some of the said purposes herein-before specially described, and desiring that, in order to give effect to the same, such act should be transmitted to England without delay, for the purpose of being laid before Parliament previous to the signification of his Majesty's assent thereto.

XLIII. And be it further enacted by the authority aforesaid, That all lands which shall be hereafter granted within the said Province of Upper Canada shall be granted in free and common socage, in like manner as lands are now holden in free and common socage, in that part of Great Britain called England : and that in every case where lands shall be hereafter granted within the said Province of Lower Canada, and where the grantee thereof shall desire the same to be granted in free and common socage, the same shall be so granted; but subject, nevertheless, to such alterations, with respect to the nature and consequences of such tenure of free and common socage, as may be established by any law or laws which may be made by his Majesty, his heirs or successors, by and with the advice and consent of the Legislative Council and Assembly of the Province.

XLIV. And be it further enacted by the authority aforesaid, That if any person or persons holding any lands in the said Province of Upper Canada, by virtue of any certificate of occupation derived under the authority of the Governor and Council of the Province of Quebec, and having power and authority to alienate the same, shall, at any time, from and after the commencement of this act, surrender the same into the hands of his Majesty, his heirs or successors, by petition to the Governor or Lieutenant Governor, or person administering the government of the said Province, setting forth, that he, she, or they is or are desirous of holding the same in free and common socage, such Governor, or Lieutenant Governor, or person administering the government, shall thereupon cause a fresh grant to be made to such person or persons of such lands, to be holden in free and common socage.

XLV. Provided nevertheless, and be it further enacted by the authority aforesaid, That such surrender and grant shall not avoid or bar any right or title to any such lands so surrendered, or any interest in the same, to which any person or persons, other than the person or persons surrendering the same, shall have been entitled, either in possession, remainder, or reversion, or otherwise, at the time of such surrender; but that every such surrender and grant shall be made subject to every such right, title, and interest, and that every such right, title, or interest shall be as valid and effectual as if such surrender and grant had never been made.

XLVI. And whereas by an act passed in the eighteenth year of the reign of his present Majesty, entitled, An act for removing all doubts and apprehensions concerning taxation by the Parliament of Great Britain in any of the Colonies, Provinces, and Plantations in North America and the West Indies; and for repealing so much of an act, made in the seventh year of the reign of his present Majesty, as imposes a duty on tea imported from Great Britain into any Colony or Plantation in America, or relates thereto, it has been declared, "that the King and Parliament of Great Britain will not impose any duty, tax, or assessment whatever, payable in any of his Majesty's Colonies, Provinces, and Plantations in North America or the West Indies, except only such duties as it may be expedient to impose for the regulation of commerce, the net produce of such duties to be always paid and applied to and for the use of the Colony, Province, or Plantation, in which the same shall be respectively levied in such manner as other duties collected by the authority of the respective General Courts or General Assemblies of such Colonies, Provinces, or Plantations, are ordinarily paid and applied:" and whereas, it is necessary, for the general benefit of the British empire, that such power of regulation of commerce should continue to be exercised by his Majesty, his heirs, or successors, and the Parliament of Great Britain, subject, nevertheless, to the condition herein-before recited, with respect to the application of any duties which may be imposed for that purpose: be it therefore enacted by the authority aforesaid, That nothing in this act contained, shall extend, or be construed to extend, to prevent or affect the execution of any law which hath been or shall at any time be made by his Majesty, his heirs or successors, and the Parliament of Great Britain, for establishing regulations or prohibitions, or for imposing, levying, or collecting duties for

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ment, XXVI Geo.
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vince of Quebec.

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m, Cap. 34.

the regulation of navigation, or for the regulation of the commerce to be carried on between the said two Provinces or between either of the said Provinces, and any other part of his Majesty's dominions, or between either of the said Provinces and any foreign country or state, or for appointing and directing the payment of drawbacks of such duties so imposed, or to give to his Majesty, his heirs or successors, any power or authority by and with the advice and consent of such Legislative Councils and Assemblies, respectively, to vary or repeal any such law or laws, or any part thereof, or in any manner to prevent or obstruct the execution thereof.

XLVII. Provided always, and be it enacted by the authority aforesaid, That the net produce of all duties which shall be so imposed, shall at all times hereafter be applied to and for the use of each of the said Provinces, respectively, and in such manner only as shall be directed by any law or laws which may be made by his Majesty, his heirs or successors, by and with the advice and consent of the Legislative Council and Assembly of such Province.

XLVIII. And whereas, by reason of the distance of the said Provinces, from this country, and of the change to be made by this act in the government thereof, it may be necessary that there should be some interval of time between the notification of this act to the said Provinces, respectively, and the day of its commencement within the said Provinces, respectively: be it therefore enacted by the authority aforesaid, That it shall and may be lawful for his Majesty, with the advice of his Privy Council, to fix and declare, or to authorize the Governor or Lieutenant Governor of the Province of Quebec, or the person administering the government there, to fix and declare the day of the commencement of this act within the said Provinces, respectively, provided, that such day shall not be later than the thirty-first day of December, in the year of our Lord one thousand seven hundred and ninety-one.

XLIX. And be it further enacted by the authority aforesaid, That the time to be fixed by his Majesty, his heirs or successors, or under his or their authority, by the Governor, Lieutenant Governor, or person administering the government in each of the said Provinces, respectively, for issuing the writs of summons and election, and calling together the Legislative Councils and Assemblies of each of the said Provinces, respectively, shall not be later than the thirty-first day of December, in the year of our Lord one thousand seven hundred and ninety-two.

L. Provided always, and be it further enacted by the authority aforesaid, That during such interval as may happen between the commencement of this act, within the said Provinces respectively, and the first meeting of the Legislative Council and Assembly of each of the said Provinces, respectively, it shall and may be lawful for the Governor or Lieutenant Governor of such Province, or for the person administering the government therein, with the consent of the major part of such Executive Council as shall be appointed by his Majesty for the affairs of such Province, to make temporary laws and ordinances for the good government, peace, and welfare of such Province, in the same manner, and under the same restrictions, as such laws or ordinances might have been made by the Council for the affairs of the Province of Quebec, constituted by virtue of the above mentioned act of the fourteenth year of the reign of his present Majesty; and that such temporary laws or ordinances shall be valid and binding within such Province until the expiration of six months after the Legislative Council and Assembly of such Province shall have been first assembled by virtue of, and under the authority of this act; subject, nevertheless, to be sooner repealed or varied by any law or laws which may be made by his Majesty, his heirs or successors, by and with the advice and consent of the said Legislative Council and Assembly.

ORDER IN COUNCIL

BY WHICH

THE PROVINCE OF QUEBEC WAS DIVIDED INTO TWO SEPARATE GOVERNMENTS OF
UPPER AND LOWER CANADA, TWENTY-FOURTH AUGUST, 1791.

At the Court at St. James's the 24th of August 1791

Present the Kings most Excellent Majesty in Council

Whereas there was this day read at the Board a report from the Right Honorable the Lords of the Committee of Council dated the 19th of this instant in the words following (viz)

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divide the Province
of Quebec.

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of 24th August,
1791.

Your Majesty having been pleased by your order in Council bearing date the 17th of this instant to refer unto this Committee a letter from the Right Honorable Henry Dundas one of your Majestys Principal Secretaries of State to the Lord President of the Council transmitting a printed copy of an act passed in the last session of Parliament entitled "An act to repeal certain parts of an act passed in the fourteenth year of His Majestys reign entitled an act for making more effectual provision for the government of the Province of Quebec in North America and to make further provision for the government of the said province and also copy of a paper presented to Parliament previous to the passing of the said act describing the line proposed to be drawn for dividing the Province of Quebec into two separate Provinces agreeable to your Majestys Royal intention signified by message to both Houses of Parliament to be called the Province of Upper Canada and the Province of Lower Canada and stating that by section forty-eight of the said act It is provided that by reason of the distance of the said Provinces from this country and of the change to be made by the said act in the government thereof it may be necessary that there should be some interval of time between the notification of the said act to the said Provinces respectively and the day of its commencement within the said Provinces respectively and that it should be lawful for your Majesty with the advice of your Privy Council to fix and declare or to authorize the Governor or Lieutenant Governor of the Province of Quebec or the person administering the government there to fix and declare the day of the commencement of the said act within the said Provinces respectively *Provided That* such day shall not be later than the 31st of December 1791 The Lords of the Committee in obedience to your Majestys said order of reference this day took the said letter into their consideration together with the act of Parliament therein referred to and likewise copy of the said paper describing the line proposed to be drawn for separating the Province of Upper Canada and the Province of Lower Canada and their Lordships do thereupon agree humbly to report as their opinion to your Majesty that it may be adviseable for your Majesty by your order in Council to divide the Province of Quebec into two distinct Provinces by separating the Province of Upper Canada and the Province of Lower Canada according to the said line of division described in the said paper (copy of which is hereunto annexed) And the Lords of the Committee are further of opinion that it may be adviseable for your Majesty by warrant under your royal sign manual to authorize the Governor or Lieutenant Governor of the Province of Quebec or the person administering the government there to fix and declare such day for the commencement of the said before mentioned act within the said two Provinces of Upper and Lower Canada respectively as the said Governor or Lieutenant Governor of the Province of Quebec or the person administering the go-

Appendix. verment there shall judge most advisable provided that such day shall not be later than the 31st day of December in the present year 1791
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The proposed line of division—To commence at a stone boundary on the north bank of the Lake St. Francis at the Cove west of Pointe au Bodet in the limit between the township of Lancaster and the Seigneurie of New Longueuil running along the said limit in the direction of north thirty-four degrees west to the westernmost angle of the said Seigneurie of New Longueuil thence along the north-western boundary of the Seigneurie of Vaudreuil running north twenty-five degrees east until it strikes the Ottawas river to ascend the said river into the Lake Tomis Canning and from the head of the said Lake by a line drawn due north until it strikes the boundary line of Hudsons Bay including all the territory to the westward and southward of the said line to the utmost extent of the country commonly called or known by the name of Canada

His Majesty this day took the said report into his royal consideration and approving of what is therein proposed is pleased by and with the advice of his Privy Council to order as it is hereby ordered that the Province of Quebec be divided into two distinct Provinces to be called the Province of Upper Canada and the Province of Lower Canada by separating the said two Provinces according to the following line of division viz To commence at a stone boundary on the north bank of the Lake St Francis at the Cove west of Pointe au Bodet in the limit between the township of Lancaster and the Seigneurie of New Longueuil running along the said limit in the direction of north thirty-four degrees west to the westernmost angle of the said Seigneurie of New Longueuil thence along the north-western boundary of the Seigneurie of Vaudreuil running north twenty-five degrees east until it strikes the Ottawas river to ascend the said river into the Lake Tomis Canning and from the head of the said Lake by a line drawn due north until it strikes the boundary line of Hudsons Bay including all the territory to the westward and southward of the said line to the utmost extent of the country commonly called or known by the name of Canada Whereof the Governor Lieutenant Governor or Commander in Chief of the Province of Quebec and all other His Majestys officers in the said Provinces and all whom it may concern are to take notice and yield due obedience to His Majestys pleasure hereby signified

Whereas there was this day read at the Board a report from the Right Honorable the Lords of the Committee of Council dated the 19th of this instant in the words following viz

Memorandum—Here the Committee report for dividing the Province of Quebec into two distinct Provinces to be called Upper Canada and Lower Canada and proposing the line of division for separating the said Provinces was inserted at length as in the preceding order

His Majesty this day took the said report into his royal consideration and approving of what is therein proposed was pleased by and with the advice of his Privy Council to order that the Province of Quebec be divided into two distinct Provinces to be called the Province of Upper Canada and the Province of Lower Canada by separating the said two Provinces according to the line of division inserted in the said orders

And His Majesty is hereby further pleased to order that the Right Honorable Henry Dundas one of His Majesty's Principal Secretaries of State do prepare a warrant to be passed under His Majestys Royal Sign Manual to authorize the Governor or Lieutenant Governor of the Province of Quebec or the person administering the government there to fix and declare such day as they shall judge most advisable for the commencement within the Province of Upper Canada and the Province of Lower Canada respectively of the said act passed in the last session of Parliament entitled

“An act to repeal certain parts of an act passed in the fourteenth year of His Majestys reign entitled an act for making more effectual provision for the government of the Province of Quebec in North America, and to make further provision for the government of the said Province” Provided that such day so to be fixed and declared for the commencement of the said act within the said two Provinces respectively shall not be later than the thirty-first day of December 1791

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British Acts to divide the Province of Quebec.
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I hereby certify that the above are true copies of the original orders.

JAS. BULLER.

COUNCIL OFFICE, 17th February, 1829.

APPENDIX No. V.

ACTS OF THE GENERAL COURT

OF MASSACHUSETTS

AND OF THE CONGRESS OF THE UNITED STATES,

RELATIVE TO THE ERECTION OF

THE DISTRICT OF MAINE INTO A SEPARATE AND INDEPENDENT STATE.

*An Act in addition to an Act, entitled “An Act relating to the separation of the
“District of Maine from Massachusetts Proper, and forming the same into a
“separate and independent State.”*

Appendix.
No. 5.

Act of Massachusetts relative to the erection of Maine into an Independent State.

SEC. 1. Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That the consent of the Legislature of this Commonwealth be, and the same is hereby given, that the District of Maine may be formed and erected into a separate and independent State, upon the terms and conditions, and in conformity to the enactments contained in an act, entitled “an act relating to the separation of the District of Maine from Massachusetts Proper, and forming the same into a separate and independent State,” whenever the Congress of the United States shall give its consent thereto, any thing in the said act limiting the time when such consent should be given, to the contrary notwithstanding: Provided, however, that if the Congress of the United States shall not have given its consent, as aforesaid, before the fifteenth day of March next, then all parts of the act, to which this is an addition, and all matters therein contained, which by said act have date or operation from or relation to the fifteenth day of March next, shall have date and operation from and relation to the day on which the Congress of the United States shall give its consent, as aforesaid: Provided also, that if the Congress of the United States shall not give its consent, as aforesaid, within two years from the fourth day of March next, this present act shall be void and of no effect.

SEC. 2. Be it further enacted, That if it shall not be known on the first Monday of April next, that the Congress of the United States has given its consent, as aforesaid, the people of the said District of Maine shall elect, provisionally, a Governor, Senators and Representatives, or other officers necessary to the organization of the government thereof as a separate and independent State, according to the provisions of the constitution of government agreed to by the people of the said District. And the persons so elected shall assemble at the time and place designated by the said constitu-

tion, if the consent of Congress, as aforesaid, shall be given during the present session thereof, but not otherwise; and when assembled, as aforesaid, and having first determined on the returns and qualifications of the persons elected, they shall have the power as delegates of the people for that purpose, to declare on behalf and in the name of the people, the said elections of such persons to be constitutional and valid, for the respective offices and stations for which they shall have been elected, as aforesaid. And if such declaration shall not be made before the persons so elected shall proceed to transact business as the Legislature of said State, the said election shall be wholly void, unless it shall appear that the consent of Congress, aforesaid, shall have been given on or before the said first Monday of April next. And if the consent of Congress, as aforesaid, shall be given after the said first Monday of April next, and the persons so elected, when assembled, as aforesaid, shall not declare the said election valid and constitutional, as aforesaid, within ten days from the last Wednesday of May next, then they shall cease to have any power to act in any capacity for the people of the said District, by virtue of their elections, as aforesaid; and the people shall again choose Delegates to meet in Convention, in the manner, for the purposes, and with the powers set forth in the third and fourth sections of the act to which this is in addition; the said elections of such Delegates to be made on the first Monday of July next, and the Delegates to meet in Convention at Portland, on the first Monday of September next.

[Approved by the Governor, February 25th, 1820.]

AN ACT

FOR THE ADMISSION OF THE STATE OF MAINE INTO THE UNION

Whereas, by an Act of the State of Massachusetts, passed on the nineteenth day of June, in the year one thousand eight hundred and nineteen, entitled "An Act relating to the separation of the District of Maine from Massachusetts Proper, and forming the same into a separate and independent State," the people of that part of Massachusetts, heretofore known as the District of Maine, did, with the consent of the Legislature of said State of Massachusetts, form themselves into an independent State, and did establish a constitution for the government of the same, agreeably to the provisions of said Act. Therefore,

SEC. 1. Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, that from and after the fifteenth day of March, in the year one thousand eight hundred and twenty, the State of Maine is hereby declared to be one of the United States of America, and admitted into the Union on an equal footing with the original States, in all respects whatever.

[Approved, 3d March, 1820.]

APPENDIX, No. VI.

Extract from Guthrie's Geographical Grammar. See printed copy of the work, Article "Scotland."

Appendix
No. 5.

American Act relative to the creation of Maine into an Independent State.

Act of Massachusetts, 25 February, 1820.

Act of Congress of 3d March, 1820

No. 6.

Extract from Guthrie's Grammar.

APPENDIX, No. VII.

EXTRACTS FROM TREATIES

BETWEEN

GREAT BRITAIN AND FOREIGN POWERS.

TENTH ARTICLE

OF THE TREATY OF PEACE BETWEEN ENGLAND AND FRANCE, CONCLUDED AT
BREDÁ, $\frac{21}{31}$ JULY, 1667.

Appendix. Traité de Paix entre Louis XIV. Roi de France et Charles II. Roi d'Angleterre.
No. 7. *Fait à Breda le $\frac{21}{31}$ Juillet, 1667.*

Treaties between
Great Britain and
Foreign Powers

10th Art. Treaty
with France
Breda, July 1667.

ARTICLE X.

Le ci-devant nommé Seigneur le Roi de la Grande Bretagne, restituera aussi et rendra au ci-dessus nommé Seigneur le Roi Très-Christien, ou à ceux qui auront charge et mandement de sa part, scellé en bonne forme du grand Sceau de France, le pays appelé l'Acadie, situé dans l'Amérique Septentrionale, dont le Roi Très-Christien a autrefois joui. Et pour exécuter cette restitution, le susnommé Roi de la Grande Bretagne, incontinent après la ratification de la présente alliance, fournira au susnommé Roi Très-Christien, tous les actes et mandemens expédiés dûment et en bonne forme, nécessaire à cet effet, ou les fera fournir à ceux de ses ministres et officiers, qui seront par lui délégués.

SEVENTH ARTICLE

OF THE TREATY OF PEACE BETWEEN GREAT BRITAIN AND FRANCE, CONCLUDED
AT RYSWICK, $\frac{10}{20}$ SEPTEMBER, 1697.

7th Art. Treaty
with France.
Ryswick, 1697.

The articles of Peace between William the Third, King of Great Britain, and Lewis the Fourteenth, King of France, concluded in the Royal Palace at Ryswick, the $\frac{10}{20}$ th day of September, 1697.

ARTICLE VII.

The most Christian King shall restore to the said King of Great Britain, all countries, islands, forts, and colonies, wheresoever situated, which the English did possess before the declaration of this present war. And in like manner the King of Great Britain shall restore to the most Christian King all countries, islands, forts, and colonies, wheresoever situated, which the French did possess before the said declaration of war; and this restitution shall be made, on both sides, within the space of six months, or sooner if it can be done. And to that end, immediately after the ratification of this treaty, each of the said Kings shall deliver, or cause to be delivered, to the other, or to commissioners authorized in his name for that purpose, all acts of concession, instruments, and necessary orders, duly made and in proper form, so that they may have their effect.

TWELFTH AND THIRTEENTH ARTICLES

OF THE TREATY OF PEACE AND FRIENDSHIP BETWEEN GREAT BRITAIN AND
FRANCE, CONCLUDED AT UTRECHT, $\frac{31}{11}$ $\frac{\text{March}}{\text{April}}$ 1713.

Treaties between
Great Britain and
Foreign Powers.
12th and 13th Art.
Treaty with
France. Utrecht,
1713.

*The Treaty of Peace and Friendship between Anne, Queen of Great Britain,
France, and Ireland, and Lewis XIV., King of France, concluded at Utrecht,
the $\frac{31}{11}$ day of $\frac{\text{March}}{\text{April}}$ 1713.*

ARTICLE XII.

The most Christian King shall take care to have delivered to the Queen of Great Britain, on the same day that the ratifications of this treaty shall be exchanged, solemn and authentic letters or instruments, by virtue whereof it shall appear, that the island of St. Christopher's is to be possessed alone hereafter by British subjects; likewise all Nova Scotia or Acadie, with its ancient boundaries, as also the city of Port Royal, now called Annapolis Royal, and all other things in those parts which depend on the said lands and islands, together with the dominion, propriety, and possession of the said islands, lands, and places, and all right whatsoever, by treaties, or by any other way obtained, which the most Christian King, the Crown of France, or any of the subjects thereof, have hitherto had to the said islands, lands, and places, and the inhabitants of the same, are yielded and made over to the Queen of Great Britain, and to her crown forever, as the most Christian King doth at present yield and make over all the particulars abovesaid, and that in such ample manner and form, that the subjects of the most Christian King shall hereafter be excluded from all kind of fishing in the said seas, bays, and other places, on the coasts of Nova Scotia, that is to say: on those which lie towards the east, within thirty leagues, beginning from the island commonly called Sable, inclusively, and thence stretching along towards the southwest.

ARTICLE XIII.

The island called Newfoundland, with the adjacent islands, shall, from this time forward, belong of right wholly to Britain; and to that end, the town and fortress of Placentia, and whatever other places in the said island are in the possession of the French, shall be yielded and given up, within seven months from the exchange of the ratifications of this treaty, or sooner if possible, by the most Christian King, to those who have a commission from the Queen of Great Britain, for that purpose. Nor shall the most Christian King, his heirs and successors, or any of their subjects, at any time hereafter, lay claim to any right to the said island and islands, or to any part of it, or them. Moreover, it shall not be lawful for the subjects of France to fortify any place in the said island of Newfoundland, or to erect any buildings there, besides stages made of boards, and huts necessary and usual for drying of fish; or to resort to the said island, beyond the time necessary for fishing, and drying of fish. But it shall be allowed to the subjects of France to catch fish, and to dry them on land, in that part only, and in no other besides that, of the said island of Newfoundland, which stretches from the place called Cape Bonavista to the northern point of the said island, and from thence, running down by the western side, reaches as far as the place called Point Riche. But the island called Cape Breton, as also all others, both in the mouth of the river of St. Lawrence, and in the gulf of the same name, shall hereafter belong of right to the French, and the most Christian King shall have all manner of liberty to fortify any place or places there.

Appendix.
No. 7.

Treaties between
Great Britain and
Foreign Powers.

4th, 5th, 7th, and
20th Art. Treaty
with France and
Spain. 10th Feb-
ruary, 1763

FOURTH, FIFTH, SEVENTH AND TWENTIETH ARTICLES

OF THE DEFINITIVE TREATY OF PEACE AND FRIENDSHIP BETWEEN GREAT BRITAIN,
FRANCE AND SPAIN, CONCLUDED AT PARIS, TENTH FEBRUARY, 1763

The Definitive Treaty of Peace and Friendship between His Britannic Majesty, the most Christian King, and the King of Spain, concluded at Paris, the 10th day of February, 1763.

ARTICLE IV.

His most Christian Majesty renounces all pretensions, which he has heretofore formed, or might form, to Nova Scotia or Acadia, in all its parts, and guaranties the whole of it, and with all its dependencies, to the King of Great Britain: moreover, his most Christian Majesty cedes and guaranties to his said Britannic Majesty, in full right, Canada, with all its dependencies, as well as the Island of Cape Breton, and all the other islands and coasts in the gulph and river St. Lawrence, and, in general, every thing that depends on the said countries, lands, islands, and coasts, with the sovereignty, property, possession, and all rights, acquired by treaty or otherwise, when the most Christian King, and the crown of France, have had till now over the said countries, islands, lands, places, coasts, and their inhabitants, so that the most Christian King cedes and makes over the whole to the said King, and to the crown of Great Britain, and that in the most ample manner and form, without restriction, and without any liberty to depart from the said cession and guaranty, under any pretence, or to disturb Great Britain in the possessions above-mentioned. His Britannic Majesty, on his side, agrees to grant the liberty of the Catholic religion to the inhabitants of Canada: he will consequently give the most precise and most effectual orders, that his new Roman Catholic subjects may profess the worship of their religion according to the rites of the Romish church, as far as the laws of Great Britain permit. His Britannic Majesty further agrees, that the French inhabitants, or others who had been subjects of the most Christian King in Canada, may retire, with all safety and freedom, wherever they shall think proper, and may sell their estates, provided it be to subjects of his Britannic Majesty, and bring away their effects, as well as their persons, without being restrained in their emigration, under any pretence whatsoever, except that of debts, or of criminal prosecutions: the term limited for this emigration shall be fixed to the space of eighteen months, to be computed from the day of the exchange of the ratifications of the present treaty.

ARTICLE V.

The subjects of France shall have the liberty of fishing and drying, on a part of the coasts of the Island of Newfoundland, such as it is specified in the XIIIth article of the treaty of Utrecht; which article is renewed and confirmed by the present treaty (except what relates to the island of Cape Breton, as well as to the other islands and coasts in the mouth and in the gulph of St. Lawrence:) and his Britannic Majesty consents to leave to the subjects of the most Christian King the liberty of fishing in the gulph St. Lawrence, on condition that the subjects of France do not exercise the said fishery but at the distance of three leagues from all the coasts belonging to Great Britain, as well those of the continent, as those of the islands situated in the said gulph St. Lawrence. And as to what relates to the fishery on the coasts of the island of

Cape Breton out of the said gulph, the subjects of the most Christian King shall not be permitted to exercise the said fishery but at the distance of fifteen leagues from the coasts of the island of Cape Breton; and the fishery on the coasts of Nova Scotia or Acadia, and every where else out of the said gulph, shall remain on the foot of former treaties.

Appendix.
No. 7.
Treaties between
Great Britain and
Foreign Powers.
4th, 5th, 7th, and
20th Art. Treaty
with France and
Spain. 10th Feby.
1763.

ARTICLE VII.

In order to re-establish peace on solid and durable foundations, and to remove for ever all subjects of dispute with regard to the limits of the British and French territories on the continent of America; it is agreed that, for the future, the confines between the dominions of his Britannic Majesty, and those of his most Christian Majesty in that part of the world, shall be fixed irrevocably by a line drawn along the middle of the river Mississippi, from its source to the river Iberville, and from thence, by a line drawn along the middle of this river, and the lakes Maurepas and Pontchartrain, to the sea; and for this purpose, the most Christian King cedes in full right, and guaranties to his Britannic Majesty, the river and port of the Mobile, and every thing which he possesses, or ought to possess, on the left side of the river Mississippi, except the town of New Orleans, and the island in which it is situated, which shall remain to France; provided that the navigation of the river Mississippi shall be equally free, as well to the subjects of Great Britain as to those of France, in its whole breadth and length, from its source to the sea, and expressly that part which is between the said island of New Orleans and the right bank of that river, as well as the passage both in and out of its mouth. It is further stipulated, that the vessels belonging to the subjects of either nation shall not be stopped, visited, or subjected to the payment of any duty whatsoever. The stipulations, inserted in the IVth article, in favor of the inhabitants of Canada, shall also take place with regard to the inhabitants of the countries ceded by this article.

ARTICLE XX.

In consequence of the restitution stipulated in the preceding article, His Catholic Majesty cedes and guaranties, in full right, to His Britannic Majesty, Florida, with Fort St. Augustine and the Bay of Pensacola, as well as all that Spain possesses on the continent of North America, to the east or to the south-east of the river Mississippi; and, in general, every thing that depends on the said countries and lands, with the sovereignty, property, possession, and all rights, acquired by treaties or otherwise, which the Catholic King and the Crown of Spain have had till now over the said countries, lands, places, and their inhabitants: so that the Catholic King cedes and makes over the whole to the said King, and to the Crown of Great Britain, and that in the most ample manner and form. His Britannic Majesty agrees, on his side, to grant to the inhabitants of the countries above ceded, the liberty of the Catholic religion: he will consequently give the most express and the most effectual orders, that his new Roman Catholic subjects may profess the worship of their religion, according to the rights of the Romish Church, as far as the laws of Great Britain permit. His Britannic Majesty further agrees, that the Spanish inhabitants, or others, who had been subjects of the Catholic King, in the said countries, may retire, with all safety and freedom, wherever they think proper, and may sell their estates, provided it be to his Britannic Majesty's subjects, and bring away their effects as well as their persons, without being restrained in their emigration, under any pretence whatsoever, except that of debts, or of criminal prosecutions; the term limited for this emigration being fixed to the space of eighteen months, to be computed from the day of the exchange of the ratifications of the present treaty. It is moreover stipulated, that his Catholic Majesty shall have power to cause all the effects that may belong to him, to be brought away, whether it be artillery or other things.

Appendix.
No. 7.

Treaties between
Great Britain and
Foreign Powers.

4th, 5th and 6th
Art. Treaty with
France, Versailles,
3d September,
1763

FOURTH, FIFTH AND SIXTH ARTICLES

OF THE DEFINITIVE TREATY OF PEACE AND FRIENDSHIP BETWEEN GREAT BRITAIN
AND FRANCE, CONCLUDED AT VERSAILLES, THIRD SEPTEMBER, 1763;

AND

*Extracts from the Declaration and Counter-Declaration, signed on the same day,
and annexed to said Treaty.*

*The definitive Treaty of Peace and Friendship between his Britannic Majesty
and the most Christian King, signed at Versailles, the 3d of September, 1763;
and extracts from the Declaration and Counter-Declaration, signed on the
same day, and annexed to said Treaty.*

ARTICLE IV.

His Majesty the King of Great Britain is maintained in his right to the island of Newfoundland, and to the adjacent islands, as the whole were assured to him by the thirteenth article of the treaty of Utrecht; excepting the islands of St. Pierre and Miquelon, which are ceded in full right, by the present treaty, to his most Christian Majesty.

ARTICLE V.

His Majesty the most Christian King, in order to prevent the quarrels which have hitherto arisen between the two nations of England and France, consents to renounce the right of fishing, which belongs to him in virtue of the aforesaid article of the treaty of Utrecht, from Cape Bonavista to Cape St. John, situated on the eastern coast of Newfoundland, in fifty degrees north latitude; and his Majesty the King of Great Britain consents, on his part, that the fishery assigned to the subjects of his most Christian Majesty, beginning at the said Cape St. John, passing to the north, and descending by the western coast of the island of Newfoundland, shall extend to the place called Cape Raye, situated in forty-seven degrees fifty minutes latitude. The French fishermen shall enjoy the fishery which is assigned to them by the present article, as they had the right to enjoy that which was assigned to them by the treaty of Utrecht.

ARTICLE VI.

With regard to the fishery in the gulf of St. Lawrence, the French shall continue to exercise it conformably to the fifth article of the treaty of Paris.

DECLARATION.

“The King having entirely agreed with His most Christian Majesty, upon the articles of the definitive treaty, will seek every means which shall not only insure the execution thereof, with his accustomed good faith and punctuality, but will besides give, on his part, all possible efficacy to the principles which shall prevent even the least foundation of dispute for the future.

“To this end, and in order that the fishermen of the two nations may not give cause for daily quarrels, His Britannic Majesty will take the most positive measures for preventing his subjects from interrupting, in any manner, by their competition, the fishery of the French, during the temporary exercise of it which is granted to them.

upon the coasts of the island of Newfoundland; and he will, for this purpose, cause the fixed settlements which shall be formed there to be removed. His Britannic Majesty will give orders that the French fishermen be not incommoded, in cutting the wood necessary for the repair of their scaffolds, huts, and fishing-vessels.

Appendix
No. 7.
Treaties between
Great Britain and
Foreign Powers.

“The thirteenth article of the treaty of Utrecht, and the method of carrying on the fishery, which has at all times been acknowledged, shall be the plan upon which the fishery shall be carried on there: it shall not be deviated from by either party; the French fishermen building only their scaffolds, confining themselves to the repair of their fishing vessels, and not wintering there; the subjects of His Britannic Majesty, on their part, not molesting in any manner the French fishermen, during their fishing, nor injuring their scaffolds during their absence.

“The King of Great Britain, in ceding the islands of St. Pierre and Miquelon to France, regards them as ceded for the purpose of serving as a real shelter to the French fishermen, and in full confidence that these possessions will not become an object of jealousy between the two nations; and that the fishery between the said islands and that of Newfoundland shall be limited to the middle of the channel.”

4th, 5th and 6th
Art. Treaty with
France, Versailles,
3d September,
1763.

“IN WITNESS WHEREOF, we, His Britannic Majesty’s Ambassador Extraordinary and Minister Plenipotentiary, being thereto duly authorized, have signed the present declaration, and caused the seal of our arms to be set thereto.

“Given at Versailles, the third of September, one thousand seven hundred and eighty-three.

[L. s.] “MANCHESTER.”

COUNTER-DECLARATION.

“The principles which have guided the King, in the whole course of the negotiations which preceded the re-establishment of peace, must have convinced the King of Great Britain that his Majesty has had no other design than to render it solid and lasting, by preventing, as much as possible, in the four quarters of the world, every subject of discussion and quarrel. The King of Great Britain undoubtedly places too much confidence in the uprightness of his Majesty’s intentions, not to rely upon his constant attention to prevent the islands of St. Pierre and Miquelon from becoming an object of jealousy between the two nations.

“As to the fishery on the coasts of Newfoundland, which has been the object of the new arrangements settled by the two Sovereigns upon this matter, it is sufficiently ascertained by the fifth article of the treaty of peace signed this day, and by the declaration likewise delivered to day, by His Britannic Majesty’s Ambassador Extraordinary and Plenipotentiary; and His Majesty declares that he is fully satisfied on this head.

“In regard to the fishery between the island of Newfoundland, and those of St. Pierre and Miquelon, it is not to be carried on by either party, but to the middle of the channel; and His Majesty will give the most positive orders that the French fishermen shall not go beyond this line. His Majesty is firmly persuaded that the King of Great Britain will give like orders to the English fishermen.”

“IN WITNESS WHEREOF, we, the under-written Minister Plenipotentiary of His most Christian Majesty, being thereto duly authorized, have signed the present counter-declaration, and have caused the seal of our arms to be affixed hereto.

“Given at Versailles, the third of September, one thousand seven hundred and eighty-three.

[L. s.] “GRAVIER DE VERGENNES.”

Appendix.
No. 7.

Treaties between
Great Britain and
Foreign Powers.

5th Art. Treaty
with Spain, Ver-
sailles, 3d Septem-
ber, 1783.

FIFTH ARTICLE

OF THE DEFINITIVE TREATY OF PEACE AND FRIENDSHIP BETWEEN GREAT BRITAIN
AND SPAIN, SIGNED AT VERSAILLES, THE 3d OF SEPTEMBER, 1783.

*The Definitive Treaty of Peace and Friendship between his Britannic Majesty
and the King of Spain—Signed at Versailles, the 3d of September, 1783.*

ARTICLE V.

His Britannic Majesty likewise cedes and guaranties, in full right, to his Catholic Majesty, East Florida, as also West Florida. His Catholic Majesty agrees that the British inhabitants, or others who may have been subjects of the King of Great Britain in the said countries, may retire in full security and liberty, where they shall think proper, and may sell their estates, and remove their effects, as well as their persons, without being restrained in their emigration, under any pretence whatsoever, except on account of debts, or criminal prosecutions; the term limited for this emigration being fixed to the space of eighteen months, to be computed from the day of the exchange of the ratifications of the present treaty: but if, from the value of the possessions of the English proprietors, they should not be able to dispose of them within the said term, then His Catholic Majesty shall grant them a prolongation proportioned to that end. It is further stipulated, that His Britannic Majesty shall have the power of removing from East Florida all the effects which may belong to him, whether artillery, or other matters.

APPENDIX. No. VIII.

No. 8.

Secret Journals of
Congress.

Secret Journals of the Acts and Proceedings of Congress, from the first meeting thereof, to the dissolution of the Confederation, by the adoption of the Constitution of the United States. Published under the direction of the President of the United States, conformably to the Resolution of Congress of 27th March, 1818, and 21st April, 1820.

See printed copy of the work, Wait's Boston Edition, 1821.

APPENDIX, No. IX.

EXTRACTS

FROM

FRANKLIN'S PRINTED PRIVATE CORRESPONDENCE.

*Extract of a letter from Dr. Franklin, one of the negotiators of the preliminary Appendix.
treaty of 1782, between Great Britain and the United States, to the Hon. No. 9.
Robert R. Livingston, dated Passy, 14th October, 1782. Transcribed from a
work entitled "The Private Correspondence of Benjamin Franklin."*

Extracts from Dr.
Franklin's Private
Correspondence

"We have now made several preliminary propositions, which the English Minister, Mr. Oswald, has approved, and sent to his Court. He thinks they will be approved there, *but I have some doubts*. In a few days, however, the answer expected will determine. By the first of these articles, the King of Great Britain renounces for himself and successors, all claim and pretension to dominion or territory within the thirteen United States; *and the boundaries are described as in our instructions*; except that the line between Nova Scotia and New England is to be settled by Commissioners after the peace."

*Extract of a letter from Dr. Franklin to the Hon. R. R. Livingston, dated Passy,
5th December, 1782.*

"You desire to be very particularly acquainted with 'every step which tends to a negotiation.' I am, therefore, encouraged to send you the first part of the Journal, which accidents and a long severe illness interrupted: but which, from notes I have by me, may be continued if thought proper. In its present state it is hardly fit for the inspection of Congress—certainly not for public view. I confide it, therefore, to your prudence.

"The arrival of Mr. Jay, Mr. Adams, and Mr. Laurens, relieved me from much anxiety, which must have continued, if I had been left to finish the treaty alone; and it has given me the more satisfaction, as I am sure the business has profited by their assistance.

"Much of the summer had been taken up in objecting against the powers given to Great Britain, and in removing those objections; in using any expressions that might imply an acknowledgment of our independence, seemed, at first, industriously to be avowed. But our refusing otherwise to treat, at length induced them to get over that difficulty; *and then we came to the point of making propositions. Those made by*

Appendix. Mr. Jay and me, before the arrival of the other gentlemen, you will find in the enclosed *Paper No. 1*, which was sent by the British Plenipotentiary to London, for the

No. 9.

Extrait from Dr.
Franklin's Private
Correspondence.

King's consideration. After some weeks, an Under Secretary, Mr. Strachey, arrived, *with whom we had much contestation about the boundaries*, and other articles which he proposed. We settled some, which he carried to London, and returned with the propositions, some adopted, others omitted or altered, and new ones added; *which you will see in Paper No. 2*. We spent many days in discussing and disputing; and, at length, agreed on and signed the preliminaries, which you will receive by this conveyance.

Paper No. 1, above referred to.

Articles agreed upon by and between Richard Oswald, Esq. the Commissioner of His Britannic Majesty for treating of peace with the Commissioners of the United States of America, on the behalf of his said Majesty, on the one part, and Benjamin Franklin and John Jay, two of the Commissioners of the said States for treating of peace with the Commissioner of his said Majesty, on their behalf, on the other part.

Whereas, *reciprocal advantages* and mutual convenience are found, by experience, to form the only permanent foundation of peace and friendship between States, it is agreed to *frame the articles* of the proposed treaty on such principles of *liberal equality* and *reciprocity*, as that partial advantages (those seeds of discord) being excluded, such a *beneficial and satisfactory intercourse* between the two countries *may be established*, as to promise and secure to both the blessings of perpetual peace and harmony.

1st. His Britannic Majesty acknowledges the said United States, viz: New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, to be *free, sovereign, and independent States*: That *he treats with them as such*; and for himself, his heirs and successors, relinquishes all claims to the government, proprietary, and territorial rights of the same, and every part thereof; and that *all disputes which might arise*, in future, *on the subject* of the boundaries of the said United States, *may be prevented*, it is hereby agreed and declared, that the following are, and shall remain to be, their boundaries, viz:

The said States are bounded, *North, by a line to be drawn from the north-west angle of Nova Scotia, along the high lands which divide those rivers which empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the northernmost head of Connecticut River*; thence, down along the middle of that river to the 45th degree of north latitude, and thence due west, in the latitude forty-five degrees north from the equator, to the north-westernmost side of the River St. Lawrence, or Cadraqui; *thence straight to the south end of the Lake Nipissing, and thence straight to the source of the River Mississippi*: West, by a line to be drawn along the middle of the River Mississippi, from its source to where the said line shall intersect the thirty-first degree of north latitude: South, by a line to be drawn due east from the termination of the line last mentioned, in the latitude of thirty-one degrees north of the equator, to the middle of the River Apalachicola, or Catshouchi; thence along the middle thereof, to its junction with the Flint River; thence, straight to the head of St. Mary's River; thence, down along the middle of St. Mary's River to the Atlantic Ocean: and *EAST, by a line to be drawn along the middle of St. John's River, from its source to its mouth in the Bay of Fundy,*

comprehending all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid boundaries, between Nova Scotia on the one part, and East Florida on the other, shall, respectively, touch the Bay of Fundy and the Atlantic Ocean.

Appendix.
No. 9.

Extracts from Dr.
Franklin's Private
Correspondence.

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PARIS, 8th October, 1782. A true copy of which has been agreed on between the American Commissioners and me, to be submitted to his Majesty's consideration.

[Signed] RICHARD OSWALD.

Alteration to be made in the treaty respecting the boundaries of Nova Scotia, viz:
East—The TRUE line between which and the United States shall be settled by Commissioners, as soon as conveniently may be after the war.

PASSY, December 14, 1782.

To the Hon. R. R. LIVINGSTON, Esq.

Secretary for Foreign Affairs.

SIR: We have the honor to congratulate Congress on the signature of the preliminaries of a peace between the Crown of Great Britain and the United States of Ameri-

Appendix.
No. 9

Extracts from Dr.
Franklin's Private
Correspondence.

ea, to be inserted in a definitive treaty, so soon as the terms between the Crowns of France and Great Britain shall be agreed on. A copy of the articles is here enclosed; and we cannot but flatter ourselves that they will appear to Congress, as they do to all of us, to be consistent with the honor and interest of the United States; and we are persuaded Congress would be more fully of that opinion, if they were apprized of all the circumstances and reasons which have influenced the negotiation. Although it is impossible for us to go into that detail, we think it necessary, nevertheless, to make a few remarks on such of the articles as appear most to require elucidation.

Remarks on Article II. relative to the Boundaries.

The Court of Great Britain insisted on retaining all the territories comprehended within the Province of Quebec, *by the act of Parliament respecting it*. They contended that *Nova Scotia should extend to the River Kennebee*; and they claimed not only all the lands in the western country, and on the Mississippi, which were not expressly included in our charters and governments, but, also, all such lands within them as remained ungranted by the King of Great Britain. It would be endless to enumerate all the discussions and arguments on the subject. We knew this Court and Spain to be against our claims to the western country; and having no reason to think that lines more favorable could ever have been obtained, we finally agreed to those described in this article. Indeed, they appear to leave us little to complain of, and not much to desire. Congress will observe that, although our northern line is in a certain part below the latitude of forty-five, yet, in others it extends above it, divides the Lake Superior, and gives us access to its western and southern waters, from which a line in that latitude would have excluded us.

Remarks on Article IV. respecting Creditors.

We had been informed that some of the States had confiscated British debts; but although each State has a right to bind its own citizens, yet, in our opinion, it appertains solely to Congress, in whom exclusively are vested the right of making war and peace, to pass acts against the subjects of a power with which the Confederacy may be at war. It therefore only remains for us to consider whether this article is founded in justice and good policy.

In our opinion no acts of Government could dissolve the obligations of good faith, resulting from lawful contracts between individuals of the two countries prior to the war. We knew that some of the British creditors were making common cause with the refugees, and other adversaries of our independence; besides, sacrificing private justice to reasons of State and political convenience is always an odious measure; and the purity of our reputation, in this respect, in all foreign commercial countries, is of infinitely more importance to us than the sums in question. It may also be remarked, that American and British creditors are placed on an equal footing.

Remarks on Articles V. and VI. respecting Refugees.

These articles were among the first discussed, and the last agreed to. And had not the conclusion of their business, at the time of its date, been particularly important to the British Administration, the respect which, both in London and Versailles, is supposed to be due to the honor, dignity, and interests of royalty, would probably have forever prevented our bringing this article so near to the views of Congress, and the

sovereign rights of States, as it now stands. When it is considered that it was utterly impossible to render this article perfectly consistent both with American and British ideas of honor, we presume that the middle line adopted by this article, is as little unfavorable to the former, as any that could in reason be expected.

As to the separate article, we beg leave to observe, that it was our policy to render the navigation of the River Mississippi so important to Britain as that their views might correspond with ours on that subject. Their possessing the country on the river, north of the line from the Lake of the Woods, affords a foundation for their claiming such navigation. And as the importance of West Florida to Britain was, for the same reason, rather to be strengthened than otherwise, we think it advisable to allow them the extent contained in the separate article; especially as, before the war, it had been annexed by Britain to West Florida, and would operate as an additional inducement to their joining with us in agreeing that the navigation of the river should forever remain open to both. The map used in the course of our negotiations was Mitchell's.

As we had reason to imagine that the articles respecting the boundaries, the refugees, and fisheries, did not correspond with the policy of this Court, we did not communicate the preliminaries to the Minister, until after they were signed; and not even then the separate article. We hope that these considerations will excuse our having so far deviated from the spirit of our instructions. The Count de Vergennes, on perusing the articles, appeared surprised, but not displeased, at their being so favorable to us.

We beg leave to add our advice, that copies be sent us of the accounts directed to be taken by the different States, of the unnecessary devastations and sufferings sustained by them from the enemy in the course of the war. Should they arrive before the signature of the definitive treaty, they might possibly answer very good purposes.

We have the honor to be, Sir, with great respect, your most obedient and most humble servants,

[Signed]

JOHN ADAMS,
B. FRANKLIN,
JOHN JAY,
HENRY LAURENS.

APPENDIX, No. X.

GRANT OF NOVA SCOTIA

TO SIR WILLIAM ALEXANDER,

DATED TENTH SEPTEMBER, 1621.

[Ex Registro Magni Sigilli, Lib. L, No. 36.]

Carta Domini Willelmi Alexandri Equitis Domini et Baronis Novæ Scotiæ in America.—(10 Sept. 1621.)

Appendix.
No. 10.

Grant of Nova
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liam Alexander,
10th Sept. 1621.

Jacobus Dei gratia Magnæ Britanniae Franciæ et Hiberniæ Rex fideique Defensor Omnibus Probis hominibus Totius terræ suæ Clericis et Laicis Salutem Sciatis Nos semper ad quamlibet que ad decus et emolumentum regni nostri Scotiæ spectaret occasionem amplectandum fuisse intentos nullamque aut faciliorem aut magis innoxiam acquisitionem censere quam que in exteris et incultis regnis eubi vitæ et victui suppetunt commoda nobis deducendis coloniis facta sit presertim si vel ipsa regna cultioribus prius vacua, vel ab infidelibus quos ad Christianam converti fidem ad Dei gloriam interest plurimum insessa fuerunt, Sed cum et alia nonnulla regna et hec non ita pridem nostra Anglia laudabiliter sua nomina nobis terris acquisitis et a se subactis induerunt quam numerosa et frequens divino beneficio hæc gens hac tempestate sit nobiscum reputantes quamque honesto aliquo et utili cultu eam studiose exerceri, ne in deteriora ex ignavia et otio prolabatur expellat plerosque in novam deducendos regionem quam coloniis compleant operæ pretium duximus qui et animi promptitudine et alacritate corporumque robore et viribus quibuscunque difficultatibus si qui alii mortalium uspiam se audeant opponere Hunc conatum huic regno maxime idoneum inde arbitramur quod virorum tantummodo et mulierum jumentorum et frumenti non etiam pecunia transportationem postulat neque incommodum ex ipsius regni mercibus retributionem hoc tempore cum negotiatio adeo immunita sic posset reponere Illic de causis sicuti et propter bonum fidei et gratum dilecti nostri consilarii Domini Willelmi Alexandri Equitis servitium nobis prestitum et prestandum qui propriis impensis ac nostratibus primis externam hanc coloniam ducendam conatus sit diversasque terras infra designatis limitibus circumscriptas incolendas expetiverit. Nos Igitur ex Regali nostra ad Christianam religionem propagandam at ad opulentiam prosperitatem pacemque naturalium nostrorum subditorum dicti regni nostri Scotiæ acquirendam cura sicuti alii Principes extranei in talibus casibus haecenus fecerunt cum avisamento et consensu predilecti nostri consanguinei et consilarii Joannis Comitis de Mar Domini Erskine et Gareoch summi nostri Thesaurarii computorum rotulatoris collectoris ac Thesaurarii novarumstrarum augmentationam hujus regni nostri Scotiæ ac reliquorum Dominorum nostrorum Commissionariorum ejusdem regni nostri Dedimus Concessimus et Disposuimus tenoreque presentis Carte nostre Damus Concedimus et Disponimus prefato Domino Wilhelmo Alexandro heredibus suis vel assignatis quibuscunque hereditarie *Omnes et singulas terras continentis ac insulas situatas et jacentes in*

America Intra caput seu promontorium communiter Cap de Sable appellat. Appendix.
Jacen. prope latitudinem quadraginta trium graduum aut eo circa ab equino-
ctionali linea versus septentrionem a quo promontorio versus littus maris tenden-
ad occidentem ad Stationem Sanctæ Mariæ navium vulgo Sanctmareis bay Et
deinceps versus septentrionem per directam lineam introitum sive ostium magna
illius stationis navium trajicien. que excurrit in terre orientalem plagam inter
regiones Suriquorum et Eteche minorum vulgo Suriquois et Etechemines ad flu-
rium vulgo nomine Sancte Crucis appellat. Et ad seaturiginem remotissimam
sive fontem ex occidentali parte ejusdem qui se primum predicto fluvio immiscet
unde per imaginariam directam lineam que pergere per terram seu currere versus
septentrionem concipietur ad proximam navium stationem fluvium vel seaturigi-
nem in magno fluvio de Cannada se se exonerantem Et ab eo pergendo versus
orientem per maris oris littorales ejusdem fluvii de Canada ad fluvium stationem
navium portum aut littus communiter nomine de Gathepe vel Gaspie notum et
appellatum Et deinceps versus Euronotum ad insulas Baculaos vel Cap Britton
vocat. Relinquendo easdem insulas a dextra et voraginem dicti magni fluvii de
Canada sive magne stationis navium Et terras de Newfundland cum insulis ad
easdem terras pertinentibus a sinistra Et deinceps ad Caput sive promontorium
de Cap Britton predict. Jacen. prope latitudinem quadraginta quinquagraduum
aut eo circa Et a dicto promontorio de Cap Britton versus meridiem et occidentem
ad predict. Cap Sable ubi ineepit perambulatio includen. et comprehenden. intra
dictus maris oras littorales ac earum circumferentias a mari ad mare Omnes ter-
ras continentis cum fluminibus torrentibus sinibus littoribus insulis aut muribus
Jacen. prope cuius latus est leucas ad aliquam earundem partem ex occidentali
boreali vel orientali partibus orarum littoralium et precinctuum earundem Et
ab Euronoti archipelago (Cap Britton) et ex australi parte ejusdem (ubi est Cap de
Sable) Omnia maris ac insulas versus meridiem intra quadraginta leucas dicta-
rum orarum littoralium earundem magnam insulam vulgariter appellat. Yle de
Sable vel Sablon includen. Jacen. versus Carban. vulgo South south eist circa triginta
leucas a dicto Cap Britton in mari Et existen. in latitudine quadraginta quatuor gra-
duum aut eo circa Quicquidem terre predictæ omni tempore affuturo nomine Nove Sco-
tie in America gaudebit. Quas etiam prefatus Dominus Willelmus in partes et portio-
nes sicut ei visum fuerit dividet, hisdemque nomina pro bene placito imponet, Unacum
omnibus fodinis tam regibus auri et argenti quam aliis fodinis ferri plumbi cupri
stanni ceris ac aliis mineralibus quibuscunque Cum potestate effodiendi et de terra effo-
dere causandi purificandi et repurgandi easdem et convertendi ac utendi suo proprio
usu aut aliis usibus quibuscunque sicuti dicto Domino Willelmo Alexander heredibus
suis vel assignatis aut iis qui suo loco in dictis terris stabiliri ipsum contigerit visum
fuerit Reservando solummodo nobis et successoribus nostris decimam partem metalli
vulgo oore auri et argenti quod ex terra in posterum effodietur aut lucrabitur Relin-
quendo dicto Domino Willelmo suisque predict. quodeunque ex aliis metallis cupri
chalibis ferri stanni plumbi aut aliorum mineralium nos vel successores nostri quovis-
modo exigere possumus ut eo facilius magnos sumptus in extrahendis prefatis metallis
tollerare possit Unacum margaritis vulgo Pearle ac lapidibus preciosis quibuscunque
aliis lapideis silvis virgultis mossis marresiiis lacubus aquis piscationibus tam in aqua
salsa quam recenti tam regalium piscium quam aliorum venatione aucupatione com-
moditatibus et hereditamentis quibuscunque unacum plenaria potestate privilegio et
Jurisdictione libere regalitatis capelle et Cancellarie imperpetuum Cumque donatione
et patronatus jure ecclesiarum Capellaniarum et beneficiorum cum tenentibus tenan-
driis et libere tenentium servitiis earundem Unacum Officiis Justiciarie et Admirali-
tatis respective infra omnes bondas respective supramentionatas Una etiam cum potes-
tate civitates liberos burgos liberos portus villas et burgos baronie erigendi aefora
et nundinas infra bondas dictarum terrarum Constituendi Curias Justiciarie et admi-

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ralitatis infra limites dictarum terrarum fluviorum portuum et *marium* tenendi Una etiam cum potestate imponendi levandi et recipiendi Omnia tollonia Custumas anchoragia aliasque dictorum burgorum fororum nundinarum et liberorum portuum devorias et eisdem possidendi et gaudendi adeo libere in omnibus respectibus sicuti quivis baro major aut minor in hoc regno nostro Scotie gavisus est aut gaudere poterit quovis tempore preterito vel futuro Cum Omnibus aliis prerogativis privilegiis Immunitatibus dignitatibus casualitatibus proficiis et devoriis ad dictas terras *maria* et bondas earundem spectant et pertinent. Et que nos ipsi dare vel concedere possumus adeo libera et ampla forma sicuti Nos aut aliquis nostrorum nobilium progenitorum aliquas cartas patentes literas infeoffamenta donationes aut diplomata concesserunt cuivis subdito nostro cujuscunque qualitatibus aut gradus cuivis sicuti aut communitati tales colonias in quascunque partes extraneas deducendi aut terras extraneas investigandi in adeo libera et ampla forma sicuti eadem in hac presenti carta nostra insereretur Facimus etiam constituimus et ordinamus dictum Dominum Willelmum Alexander heredes suos aut assignatos vel eorum deputatos nostros hereditarios locum tenentes generales ad representandum nostram personam regalem tam per *mare* quam per terram in regionibus *maris* oris ac finibus predict. In petendo dictas terras quamdiu illic manserit ac redeundo ab eisdem ad gubernandum et regendum et puniendum omnes nostros subditos quos ad dictas terras ire aut easdem inhabitare contigerit aut qui negotiationem cum eisdem susceperint vel in eisdem locis remanebunt ac eisdem ignoscendum Et ab stabiliendum tales legis statuta constitutiones directiones instructiones formas gubernandi et magistratuum ceremonias infra dictas bondas sicut ipsi Domino Willelmo Alexander aut ejus predict. ad gubernationem dicte regionis et ejusdem incolarum in omnibus causis tam criminalibus quam civilibus visum fuerit et easdem leges regimina formas et ceremonias alterandum et mutandum quoties sibi vel suis predictis pro bono et commodo dicte regionis placuerit Ita ut dicte leges tam legibus hujus regni nostri Scotie quam fieri possunt sint concordantes volumus etiam ut in casu rebellionis aut seditionis legibus utatur militaribus adversus delinquentes vel imperio ipsius sese subtrahentes adeo libere sicuti aliquis locum tenens cujus vis regni nostri vel domini virtute officii locum tenentis habent vel habere possunt Excludendo omnes alios officarios hujus regni nostri Scotie terrestres vel maritimos qui imposterum aliqui juris clamei commoditatis autoritatis aut interesse in et ad dictas terras aut provinciam predict. Vel aliquam inibi Jurisdictionem virtute alicujus precedentis dispositionis aut diplomatis pretendere possunt. Et ut viris honesto loco natis sese ad expeditionem istam subeundam et ad colonii plantationem in dictis terris addatur animus. Nos pro nobis nostrisque heredibus et successoribus cum avisamento et consensu predict. Virtute presentis carte nostre Damus et concedemus liberam et plenariam potestatem prefato Domino Willelmo Alexander suisque predict. Conferendi favores privilegia munia et honores in demerentes. Cum plenaria potestate fisdem aut eorum alicui quos cum ipso Domino Willelmo suisque predict. Pactiones vel contractus facere pro eisdem terris contigerit sub subscriptione sua vel suorum predict. Et sigillo infra mentionato aliquam portionem vel portiones dictarum terrarum portuum navium stationum fluviorum aut premissorum alicujus partis disponendi et extra donandi. Erigendi etiam omnium generum machinas artes facultates vel scientias aut easdem exercendi in toto vel in parte sicuti ei pro bono ipsorum visum fuerit. Dandi etiam concedendi et attribuendi talia officia titulos Jura et potestates constituendi et designandi tales capitaneos officarios ballivos gubernatores omnesque alios regalitatis baronie et burgi officarios aliosque ministros pro administratione Justitia infra bondas dictarum terrarum aut in via dum terras istas petunt per *mare* at ab eisdem redeunt sicuti ei necessarium videbitur secundum qualitates condiciones et personarum merita quos in aliqua coloniarum dicte provincia aut aliqua ejusdem parte habitare contigerit aut qui ipsorum bona vel fortunas pro commodo et incremento ejusdem periculo committent et eosdem ab officio removendi alterandi et mutandi prout ei

suisque prescript. expediens videbitur Et eum hujas conatus non sine magno labore et sumptibus fiant magnamque pecunie largitionem requirant adeo ut privati ejusvis fortunas excedent et multo rem suppetitis indigeant Ob quam causam prefatus Dominus Willelmus Alexander suisque prescript. eam diversis nostris subditis aliisque pro particularibus periculationibus et susceptionibus ibidem. Qui forte cum eo suisque heredibus assignatus vel deputatis pro terris piscationibus mercimoniis aut populi transportatione cum ipsorum pecoribus rebus et bonis versus dictam Novam Scotiam contractus inibunt Volumus ut quicumque tales contractus cum dicto Willelmo suisque predict. Sub ipsorum subscriptionibus et sigillis expedire limitando assignando et affigendo diem et locum pro personarum honorum et rerum ad navem deliberatione sub pena et forisfactura ejusdam monete summe et eosdem contractus non perficient sed ipsum frustrabunt et in itinere designato ei nocebunt Quod non solum dicto Domino Willelmo suisque predict. poterit esse prejudicio et noceamento verum etiam nostre tam laudabili intentioni obstabit et detrimentum inferet Tunc licitum erit prefato Domino Willelmo suisque predictis vel eorum deputatis et conservatoribus inframentationis in eo casu sibi suisve predict. quos ad hunc effectum substituet omnes tales summas monete bona et res forisfactas per talium contractuum violationem assumere Quod ut facilius fiat et legum prolixitas evitetur Deditimus et Concessimus tenoreque presentis Carte nostre Deditimus et Concedimus plenariam licentiam liberatam et potestatem dicto Domino Willelmo suisque heredibus et assignatis predict. Eligendi nominandi assignandi et ordinandi libertatam et privilegiorum per presentem Cartam nostram sibi suisque predict. Concessorum Conservatorem Qui expedite executioni leges et statuta per ipsum suosque predict. facta secundum potestatem ei suisque predict. per dictam nostram eam concessam demandant Volumusque et ordinamus potestatem dicti Conservatoris in actionibus et causis ad personas versus dictam plantationem contrahentes spectantibus absolutam esse sine ulla appellatione aut procrastinatione quacunque Quicquidem Conservator possidebit et gaudebit omnia privilegia Immunitates libertates ac dignitates quascunque que quivis Conservator Scoticorum privilegiorum apud extraneos vel in Gallia Flandria aut alibi haecenus possiderunt aut gavisi sunt quovis tempore prederito Et licet omnes tales contractus inter dictum Dominum Willelmum suosque predict. et predictos periclitatores per periculationem et transportationem populorum cum ipsorum bonis et rebus ad statutum diem perficiantur. Et ipsi cum suis omnibus pecoribus et bonis ad littus illius provincie animo coloniam ducendi et remanendi appellent. Et nihilominus postea vel omnino provinciam Novae Scotiae et ejusdem confinia sine licentia dicti Domini Willelmi ejusque predict. vel eorum deputatorum vel societatem et coloniam predict. ubi primum combinati et conjuncti fuerant derelinquent et ad agrestes indigenas in locis remotis et desertis habitandum se se conferent Quod tunc amittent et forisfacient omnes terras prius iis concessas Omnia etiam bona infra omnes predictas bondas. Et licitum erit predicto Domino Willelmo suisque predict. Eadem fisco applicare et easdem terras recognoscere eademque omnia ad ipsos vel eorum aliquem quovismodo spectantia possidere et suo peculiari usui suorumque predict. convertere Et ut omnes dilecti nostri subditi tam regnorum nostrorum et dominiorum quam alii extranei quos ad dictas terras aut aliquam earundem partem ad mercimonia contrahenda navigare contigerit melius sciant et obedientes sint potestati et auctoritati per nos in predictum fidelem nostrum consiliarium Dominum Willelmum Alexander suosque predict. collate in omnibus talibus omissionibus warrantis contractibus quas quovis tempore futuro faciet concedet et constituet pro decentiori et valideiori constitutione officiariorum pro gubernatione dictae coloniae concessione terrarum et executione Justicie dictos inhabitantes periclitantes deputatos factores vel assignatos tangen. in aliqua dietarum terrarum parte vel in navigatione ad easdem terras. Nos cum avisamento et consensu predicto ordinamus Quod dictus Dominus Willelmus Alexander suisque predict. unum commune sigillum habebunt ad officium locum tenentis Justiciarie et

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Admiralitatē spectan. Quod per dictum Dominum Willelmum Alexander suosque predict. vel per deputatos suos omni tempore aſſuturo eustodietur. In cuius uno latere nostra insignia inſculpentur cum his verbis in ejusdem circulo et margine Sigillum Regis Scotie Anglie Francie et Hybernie Et in altera latera Imago nostra nostrorumque ſucceſſorum cum his verbis (Pro Nove Scotie locum tenentē) cuius juſtum exemplar in manibus ac eustodia dicti conſervatoris remanebit quo prout occaſio requirit in officio ſuo utetur Et cum maxime neceſſarium ſit ut omnes dilecti noſtri ſubditi quot quot dictam provinciam Nove Scotie vel ejus confinia incolent in timore omnipotentis Dei et vero ejus cultu ſimul vivant omni conſenſu intentes Chriſtianam religionem ibi ſtabilire pacem etiam et quietem cum nativis incolis et agreſtibus aboriginibus earum terrarum colere unde ipſi et eorum cuilibet mercimonia ibi exercentes tuti cum oblectamento ea que magno cum labore et periculo acquiſiverunt quiete poſſidere poſſint. Nos pro nobis noſtriſque ſucceſſoribus volumus nobiſque viſum eſt per preſentis carte noſtre tenorem Dare et concedere dicto Domino Willelmo Alexander ſuiſque predict. et eorum deputatis vel aliquibus aliis gubernatoribus officiariis et miniſtris quos ipſi conſtituent libera et abſolutam poteſtatem tractandi et pacem affinitatem amicitiam mutua colloquia operam et communicationem cum agreſtibus illis aboriginibus et eorum Principibus vel quibuſcunque aliis regimen et poteſtatem in ipſos habentibus contrahendi obſervandi et colendi tales affinitates et colloquia que ipſe vel ſui predict. cum iis contrahent modo federa illa ex aversa parte per ipſos ſilveſtres fideliter obſerventur, Quod niſi fiat arma contra ipſos ſumendi quibus redeſſi poſſunt in ordinem ſicuti dicto Willelmo ſuiſque predict. et deputatis pro honore obediētiæ et Dei ſervitio ac ſtabilimento deſenſione et conſervatione authoritatis noſtre inter ipſos expediens videbitur Cum poteſtate etiam predicto Domino Willelmo Alexander ſuiſque predict. per ipſos vel eorum deſutos ſubſtitutos vel assignatos pro ipſorum deſenſione tutela omni tempore et omnibus juſtis occaſionibus in poſterum aggrediendi exinopinato invadiendi expellendi ac armis repellendi tam per mare quam per terram omnibus modis omnes et ſingulos qui ſine ſpeciali licentia dicti Domini Willelmi ſuorum que predict. terras inhabitare aut mercaturam facere in dicta Nove Scotie provincia aut quavis ejusdem parte conabuntur Et ſimiliter omnes alios quocunque qui aliquid damni detrimenti deſtructionis leſionis vel invaſionis contra provinciam illam aut ejusdem incolas inferre preſumunt Quod ut facilius fecit licitum erit dicto Domino Willelmo ſuiſque predict. eorum deputatis factoribus et assignatis contributiones a periclitantibus et incolis ejusdem levare in unum cogere per proclamationes vel quovis alio ordine talibus temporibus ſicuti dicto Domino Willelmo ſuiſque predict. expediens videbitur Omnes noſtros ſubditos infra dietos limites diete provincie Nove Scotie inhabitantes et mercimonia ibidem exercentes convocare pro meliori exercituum neceſſariorum ſupplemento et populi et plantationis dictarum terrarum augmentatione et incremento cum plenaria poteſtate privilegio et libertate dicto Domino Willelmo Alexander ſuiſque predict. per ipſos vel eorum ſubſtitutos per quevis maria ſub noſtris insigniis et vexillis navigandi cum tot navibus tanti oneris et tam bene munitione viris et victualibus inſtructis ſicuti poſſunt parare quovis tempore et quoties eis videbitur expellens ac omnes cujuſcunque qualitatē et gradus perſonas ſubditi noſtri exiſtentes aut qui imperio noſtro ſeſe ſubdere ad iter illud ſuſcipiendum voluerint cum ipſorum jumentis equis bobus ovibus bonis et rebus omnibus munitionibus machinis majoribus armis et inſtrumentis militaribus quot quot voluerint aliſque commoditatibus et rebus neceſſariis pro uſu ejusdem colonie mutuo commercio cum nativis inhabitantibus earum provinciarum aut aliis qui cum ipſis plantatoribus mercimonia contrahent transportandi. Et omnes commoditates et mercimonia que iis videbuntur neceſſaria in regnum noſtrum Scotie ſine alienius taxationis cuſtume aut impoſitionis pro eiſdem ſolutione nobis vel noſtris cuſtumariis aut eorum deputatis inde portandi eoſdem ub eorum officiis in hac parte pro ſpatio ſeptem annorum diem date preſentium immediate ſequen. inhibendo Quamquidem ſolam commoditatem per ſpatium

tredecim annorum in posterum libere concessimus tenoreque presentis carte nostre concedimus et disponimus dicto Domino Willelmo suisque predict. secundum proportionem quinque pro centum postea mentionat. Et post tredecim illos annos finitos licitum erit nobis nostrisque successoribus ex omnibus bonis et mercimoniis que ex hoc regno nostro Scotie ad eandem provinciam vel ex ea provincia ad dictum regnum nostrum Scotie exportabuntur vel importabuntur in quibusvis hujus regni nostri portibus per dictum Willelmum suosque predict. Tantum quinque libras pro centum secundum antiquam negotiandi morem sine ulla alia impositione taxatione custuma vel deboria ab ipsis imperpetuum levare et exigere Quaquidem summa quinque librarum pro centum sic soluta per dictum Dominum Willelmum suosque predict. aliisque nostris officiariis ad hunc effectum constitutis, Exinde licitum erit dicto Domino Willelmo suisque predict. eadem bona de nostro hoc regno Scotie. In quasvis alias partes vel regiones extraneas sine alienius alterius custume taxationis vel devorie solutione nobis vel nostris heredibus aut successoribus aut aliquibus aliis transportare et avehere. Proviso tamen quod dicta bona infra spatium tredecim mensium post ipsorum in quovis hujus regni nostri portu appulsionem navi rursus imponantur Dan. et conceden. absolutam et plenariam potestatem dicto Domino Willelmo suisque predict. ab omnibus nostris subditis qui colonie deducere mercimonia exercere aut ad easdem terras Nove Scotie et ab eisdem navigare voluerint preter dictam summam nobis debitam pro bonis et mercimoniis quinque libras de centum vel ratione exportationis ex hoc regno nostro Scotie ad provinciam Nove Scotie vel importationis a dicta provincia ad regnum hoc nostrum Scotie predict. In ipsius ejusque predict. proprios usus sumendi levandi et recipiendi Et similiter de omnibus bonis et mercimoniis que per nos subditos coloniarum doctores negotiatores et navigatores de dicta provincia Nove Scotie ad quevis nostra dominia aut alia quevis loca exportabuntur vel a nostris regnis et aliis locis ad dictam Novam Scotiam importabuntur ultra et supra dictam summam nobis destinatam quinque libras de centum Et de bonis et mercimoniis omnium extraneorum aliorumque sub nostra obedientia existentium que vel de provincia Nove Scotie exportebuntur vel ad eandem importabuntur ultra et supra dictam summam nobis destinatam decem libras de centum dicti Domini Willelmi suorumque predict. propriis usibus per tales ministros officarios vel substitutos eorumve deputatos aut factores quos ipsi ad hunc effectum constituent et designabunt levandi sumendi ac recipiendi Et pro meliori dicti Domini Willelmi suorumque predict. aliorumque omnium dictorum nostrorum subditorum qui dictam Novam Scotiam inhabitare vel ibidem mercimonia exercere voluerint securitate et commoditate et generaliter omnium aliorum qui nostre auctoritati et potestati sese subdere non gravabuntur nobis visum est Volumusque quod licitum erit dicto Domino Willelmo suisque predictis unum aut plura munimina propugnacula castella loca fortia specula armamentaria lie blokhousis alique edificia cum portibus et navium stationibus edificare vel edificari causare unacum navibus bellicis easdemque pro defensione dict. locarum applicare sicut dicto Domino Willelmo suisque predict. Pro dicto conamine perficiendo necessarium videbitur proque ipsorum defensione militum eatervas ibidem stabilire preter predicta supramentionata Et generaliter omnia facere que pro conquestu augmentatione populi inhabitacione preservatione et gubernacione dicte Nove Scotie ejusdemque orarum et territorii infra omnes hujusmodi limites pertinentias et dependentias sub nostro nomine et auctoritate quodeunque nos si personaliter essemus presentes facere potuimus Licet casus specialem et strictum magis ordinem quam per presentes prescribitur requirat, Cui mandato volumus et ordinamus strictissimeque precipimus Omnibus nostris Justiciariis Officiariis et subditis ad loca illa sese conferentibus ut sese applicent dicto que Domino Willelmo suisque predictis. In omnibus et singulis supramentionatis earum substantiis circumstantiis et dependentiis intendant et obediant eisque in earum executione in omnibus adeo sint obedientes ut nobis cujus personam representat esse deberent sub pena disobediente et rebellionis Et quia fieri potest quod quidem ad dicta loca

Appendix.
No. 10.

Grant of Nova
Scotia to Sir Wil-
liam Alexander,
16th Sept. 1621.

transportandi refractarii sint et ab eadem loca ire recusabunt aut dicto Domino Wilhelmo suisque predict. resistant Nobis igitur placet quod omnes Vicecomites senescalli regalitatum ballivi pacis justiciarii prepositi et urbium ballivi eorumque officarii et Justicie ministri quecumque dictum Dominum Wilhelmum suosque deputatos aliosque predict. In omnibus et singulis legitimis rebus et factis quas facient aut intendunt ad effectum predict. similiter et eodem modo sicuti nostrum speciale warrantum ad hunc effectum haberent assistent fortificent et eisdem suppetias ferant Declaramus insuper per presentis carte nostre tenorem omnibus Christianis Regibus Principibus et Statibus Quod si aliquis vel aliqui qui imposterum de dietis coloniis vel de earum aliqua sit in dicta Provincia Nove Scotie vel aliqui alii sub eorum licencia vel mandato quovis tempore futuro piratiam exereentes per *mare* vel terram bona alicujus abstulerint vel aliquid injustum aut molestum hostiliter intra aliquos nostros nostrorumque heredum et successorum aut aliorum Regum Principum Gubernatorum aut Statuum in federe nobiscum existen, subditos quod tali injuria sic oblata aut justa querela de super mota per aliquem Regem Principem Gubernatorem Statum vel eorum subditos predict. Nos nostri heredes et successores publicas proclamationes fieri curabimus in aliqua parte dieti regni nostri Scotie ad hunc effectum magis commoda ut dicta pirata vel pirate qui tales rapinas committent stato tempore per prefatas proclamationes limitando plenarie restituent que cumque bona sic oblata et pro dietis injuriis omnimodo satisfaciant Ita ut dieti Principes alique sic conquirentes satisfactos se esse reputent Et quod si talia facinora committent bona oblata non restituent aut restitui faciant infra limitatum tempus Quod tunc imposterum sub nostra protectione et tutela minime erunt Et quod licitum erit omnibus Principibus aliisque predict. delinquentes eos hostiliter prosequi et invadere Et licet neminem nobilem aut generosum de patria hac sine licencia nostra decedere statutum sit Nihilominus volumus quod presens hoc Diploma sufficiens erit licencia et warrantum omnibus qui se huic itineri committent qui lese majestatis non sunt rei vel aliquo alio speciali mandato inhibiti Atque etiam per presentis carte nostre tenorem declaramus volumusque quod nemo patria hac decedere permittatur versus dictam Novam Scotiam nullo tempore nisi ii qui Juramentum supremitatis nostre primum susceperint ad quem effectum nos per presentes dicto Domino Wilhelmo suisque predict. vel eorum conservatori vel deputati Idem hoc juramentum omnibus personis versus illas terras in ea colonia se se conferentibus requirere et exhibere plenariam potestatem et auctoritatem damus et concedimus Preterea Nos cum avasamento et consensu predicto pro nobis et successoribus nostris Declaramus decernimus et ordinamus Quod omnes nostri subditi qui ad dictam Novam Scotiam proficiscuntur aut eam ineolent earumque omnes liberi et posteritas qui ibi nasei contigerit aliique omnes ibidem periclitantes habebunt et possidebunt omnes libertates immunitates et privilegia liberorum et naturalium subditorum regni nostri Scotie aut aliorum nostrorum dominiorum sicuti ibidem nati fuissent Insuper Nos pro nobis et successoribus nostris Damus et concedimus dicto Domino Wilhelmo Alexander suisque predict. liberam potestatem stabiliendi et eudere causandi monetam pro commercio liberiori inhabitantium diete provincie cujusvis metalli que modo et qua forma voluerint et eisdem prescribent Atque etiam si que questiones aut dubia super interpretatione aut constructione alicujus clause in hac presenti carta nostra contente occurrent Ea omnia sumuntur et interpretabuntur in amplissima forma Et in favorem dieti Domini Wilhelmi suorumque predict. Preterea Nos ex nostra certa scientia proprio motu auctoritate regali et potestate regia fecimus univimus annexavimus ereximus creavimus et incorporavimus tenoreque presentis carte nostre facimus univimus annexamus erigimus creamus et incorporamus Totam et integram predictam provinciam et terras Nove Scotie cum omnibus earundem limitibus et *maris* ac mineralibus auri et argenti plumbi cupri chalibis stanni æris ferri aliisque quibuscunque fodinis margaritis lapidibus preciosis lapicidinis silvis virgultis mossis marresis lacubus aquis piscationibus tam in aquis dulcibus quam salis tam regalium piscium quam aliorum Civitatibus liberis portubus liberis burgis urbibus baronie burgis *maris* portu-

bus anchoragiis machinis molendinis officiis et Jurisdictionibus omnibusque aliis generaliter et particulariter supramentionatis In unum Integrum et liberum Dominium et Baroniam per predictum nomen Nove Scotiæ omni tempore futuro appelland. Volumusque et concedimus ac pro nobis et successoribus nostris Decernimus et ordinamus Quod unica sasina nunc per dictum Dominum Willelmum suosque predict. omni tempore affuturo super aliquam partem fundi dictarum terrarum et provincie prescript. Stabit et sufficiens erit sasina pro tota regione Cum omnibus partibus pendiculis privilegiis casualitatibus libertatibus et immunitatibus ejusdem supra mentionatis absque aliqua alia speciali aut particulari sasina per ipsum suosve predict. apud aliquam aliam partem vel ejusdem locum capienda penes quam sasina omniaque que inde sequuta sunt aut sequi possunt, Nos cum avisamento et consensu prescript. pro nobis et successoribus nostris dispensavimus Tenoreque presentis carte nostre modo subius mentionat. dispensamus imperpetuum Tenen. et Haben. Totam et integram dictam regionem et dominium Nove Scotie cum omnibus ejusdem limitibus infra predicta *maria* mineralibus auri et argenti cupri chalibis stanni ferri æris aliisque quibuscunque fodinis margaritis lapidibus preciosis lapideis silvis virgultis mossis marresis lacubus aquis piscationibus tam in aquis dulcibus quam salis tam regalium piscium quam aliorum civitatibus liberis burgis liberis portubus urbibus baronie burgis *maris* portubus anchoragiis machinis molendinis officiis et jurisdictionibus omnibusque aliis generaliter et particulariter supramentionat. Cumque omnibus aliis privilegiis libertatibus Immunitatibus casualitatibus aliisque supra expressis prefato Domino Willelmo Alexander heredibus suis et assignatis De nobis nostrisque successoribus In feodo hereditate libero dominio libera baronia et regalitate imperpetuum modo supra mentionato Per omnes rectas metas et limites suas prout jacent in longitudine et latitudine In domibus edificiis edificatis et edificandis boscis planis *maris* marresis viis semitis aquis stagnis rivolis pratis pascuis et pasturis molendinis murturis et eorum sequelis aucupationibus venationibus piscationibus petariis turbariis carbonibus carbonariis cuniculis cuniculariis columbis columbariis fabrilibus brasinis brueriis et genestis silvis nemoribus et virgultis lignis lapideis lapide et calce Cum curiis et earum exitibus herezeldis bludewitis et mulierum marchetis Cum furca fossa sok sak thole thame infangtheiff outfangtheiff vert wrak wair veth vennyssoun pitt et gallous ac cum omnibus aliis et singulis libertatibus commoditatibus proficiis asiamentis ac justis suis pertinentiis quibuscunque tam non nominatis quam nominatis tam subius terra quam supra terram procul et prope ad predict. regionem spectan. seu juste spectare valen. quomodolibet in futurum libere quiete plenarie integre honorifice bene et in pace Absque ulla revocatione contradictione impedimento aut obstaculo aliquali Solvendo inde annuatim dictus Dominus Willelmus Alexander suique predict. Nobis nostrisque heredibus et successoribus unum denarium monete Scotie super fundum dictarum terrarum et provincie Nove Scotie ad festum Nativitatis Christi nomine albefirme si petatur tantum Et quia tentione dictarum terrarum et provincie Nove Scotie et albafirma predict. deficiente tempestivo et legitimo introitu ejusvis heredis vel heredum dicti Domini Willelmi sibi succeden. quod difficulter per ipsos prestari potest, ob longinquam distantiam ab hoc regno nostro eadem terre et provincie ratione nonintroitus in manibus nostris nostrorumve successorum devenient usque ad legitimum legitimi heredis introitum Et nos nolentes dictas terras et regionem quovis tempore in nonintroitu cadere neque dictum Dominum Willelmum suosque predict. beneficiis et proficiis ejusdem catenus frustrari Idecirco Nos cum avisamento predict. cum dicto introitu quandocunque contigerit dispensavimus Tenoreque presentis carte nostre pro nobis et successoribus nostris dispensamus Ac etiam renunciavimus et exoneravimus tenoreque ejusdem Carte nostre cum consensu predicto Renunciamus et exoneramus dictum Dominum Willelmum ejusque prescript. prefatum nonintroitum diete provincie et regionis quandocunque in manibus nostris deveniet aut ratione nonintroitus cadet cum omnibus que desuper sequi possunt Proviso tamen Quod dictus Dominus Willelmus suique heredes et assignati

Appendix.
No. 10.

Grant of Nova
Scotia to Sir A. A.
Dumfries, 1621.
19th Sept. 1621.

infra spatium septem annorum post decessum et obitum suorum predecessorum aut introitum ad possessionem dietarum terrarum aliorumque predict. per ipsos vel eorum legitimos procuratores ad hunc effectum potestatem habentes nobis nostrisque successoribus homagium faciant Et dietas terras dominium et baroniam aliaque predict. adeant et per nos recipiantur secundum leges et statuta dieti regni nostri Scotie Denique Nos pro nobis et successoribus nostris volumus decernimus et ordinamus presentem hanc nostram cartam et infeofamentum suprascript. predict. terrarum dominii et regionis Nove Scotie privilegia et libertates ejusdem in proximo nostro Parlamento dieti regni nostri Scotie cum contigerit ratificari approbari et confirmari ut vim et efficaciam decreti inibi habeat penes quod nos pro nobis et successoribus nostris declaramus hanc nostram cartam sufficiens fore warrantum Et in verbo Principis eandem ibi Ratificari et approbari promittimus Atque etiam alterare renovare et eandem in amplissima forma augere et extendere quoties dicto Domino Wilhelmo ejusque predict. necessarium et expediens videbitur Insuper Nobis visum est ac mandamus et precipimus dilectis nostris

Vice comitibus nostris in hac parte specialiter constitutis quatenus post hujus carte nostre nostro sub magno sigillo aspectum statum et sasinam actualem et realem prefato Domino Wilhelmo suisque predict. eorumve aeternato vel aeternatis terrarum dominii baronie aliorumque predict. cum omnibus libertatibus privilegiis immunitatibus aliisque supra expressis dare et concedere Quam sasinam Nos per presentis carte nostre tenorem adeo legitimam et ordinariam esse declaramus Ac si preceptum sub testimonio nostri magni sigilli in amplissima forma cum omnibus clausulis requisitis ad hunc effectum predict. haberet penes quod pro nobis et successoribus nostris imperpetuum dispensamus In ejus rei Testimonium huic presenti carte nostre magnum sigillum nostrum apponi precepimus Testibus predilectis nostris consanguineis Jacobo Marchione de Hammiltoun comite Arranie Domino Eyan Georgio Mariscalli Comite Domino Keyth ⁊ regni nostri Mariscallo Alexandro Comite de Dumfermeling Domino Fyvie et Urquhart nostro Cancellario Thoma Comite de Melros Domino Binning et Byres ⁊ nostro Secretario dilectis nostris familiaribus consiliariis Dominis Ricardo Cokburne Juniore de Clerkingtoun nostri secreti sigilli custode Georgio Hayde Kiu fawnis nostrorum rotulorum registri ac consilii clerico Joanne Cokburne de Ormestoun nostre Justiciarie clerico et Joanne Scot de Scotstarvett nostre cancellarie direttore militibus Apud Castellum nostrum de Windsore decimo die mensis Septembris Anno Domini millesimo sexcentesimo vigesimo primo Regnorumque nostrorum annis quinquagesimo quinto et decimo nono.

Per signaturam manu S. D. N. Regis suprascript. ac manibus Cancellarii The-
saurarii principalis Secretarii ac reliquorum Dominorum Commission-
ariorum ac Secreti Consilii ejusdem regni Scotie subscriptam.

H. M. General Register House, Edinburgh, Dec. 25, 1828.

A faithful copy.

THO. THOMSON,
Deputy Clerk Register.

APPENDIX, No. XI.

GRANTS AND DEEDS OF SALE

OF THE

PROVINCE OF MAINE

AND

EXTRACTS FROM THE RECORDS OF THE GENERAL COURT OF THE COLONY OF
MASSACHUSETTS BAY, RELATIVE TO THE TRANSFER OF SAID PROVINCE,

VIZ:

Grant of the Province or Countie of Maine to Sir Ferdinando Gorges, by Charles I. 3d April, 1639.
Deed of Ferdinando Gorges to John Usher, 13th March, 1677.
Deed of John Usher to the Massachusetts Bay Company, 15th March, 1677.
Extracts from the Records of the General Court of the Colony of Massachusetts Bay of the 2d Oct. 1678.
Ditto.....Ditto.....28th May, 1679.
Di to.....Ditto.....4th Feb'y 1679.
Ditto.....Ditto.....4th June, 1717.

GRANT

OF THE PROVINCE OR COUNTIE OF MAINE BY CHARLES I. TO SIR FERDINANDO
GORGES, THIRD APRIL, 1639.

Vigesima quinta pars Paten de anno Regni Regis Caroli quinto decimo

D Con ad Vitam } CHARLES by the grace of God King of England Scotland *Appendix.*
Ferdinando Gorges } France and Ireland Defender of the Faith &c *No. 11.*
Militi sibi & heredibus }

To all to whom theise Presents shall come Greeting Whereas Sir Ferdinando Gorges Knight hath beene an humble suitor unto us to graunte and confirme unto him and his heires a parte and porcion of the Countrie of America now comonly called or knowne by the name of New England in America hereafter in theise Presents described by the meets and boundes thereof with divers and sundrie priviledges and jurisdiceons for the welfare and good of the state of those Colonies that shalbee drawne thither and for the better governement of the people that shall live and inhabite within the lymits and precincts thereof whiche parte or porcion of the said Countrie wee have heretofore (amongst other things) for us our heires and successors taken into actual and reall possession or in defaulte of such actuall and reall possession formerly taken Wee Doe by theise Presents for us our heires and successors take the same into our actuall and reall possession Knowe yee therefore that of our especiall grace certaine knowledge and meere moecon Wee Have given graunted and confirmed And by theise Presents for us our heires and successors Doe give graunte and confirme unto the said Sir Fardinando Gorges his heires and assignes All that Parte

*Grant, Sale and
transfer of the
Province of Maine.
Grant by Charles
I. to Sir Ferd.
Gorges.*

Appendix.
No. 11.

Grant, Sale and
Transfer of the
Province of Maine.

Grant by Charles
I. to Sir Ferd.
Gorges.

Purparte and Porcon of the Mayne Lande of New England aforesaid *beginning at the entrance of Pascataway Harbor and soe to passe upp the same into the River of Newichewanocke and through the same unto the furthest heade thereof and from thence Northwestwards till one hundred and twenty miles bee finished and from Pascataway Harbor mouth aforesaid Northeastwards alonge the Sea Coasts to Sagadahoeke and upp the River thereof to Kynybequy River and through the same unto the heade thereof and into the Lande Northwestwards untill one hundred and twenty myles bee ended being accompted from the mouth of Sagadahoeke and from the period of one hundred and twenty myles aforesaid to crasse over Lande to the one hundred and twenty myles end formerly reckoned upp into the Lande from Pascataway Harbor through Newichewanocke River and alsoe the Northe halfe of the Isles of Shoales together with the Isles of Cupawoek and Nautican neere Cape Cod as alsoe all the Islands and Helts lyeing within fire leagues of the Mayneall alonge the foresaide Coasts betwene the aforesaid River of Pascataway and Sagadahoeke with all the Creekes Havens and Harbors thereunto belonginge and the Revercon and Revercons Remaynder and Remaynders of all and singular the said Landes Rivers and Premisses All which said Part Purpart or Porcon of the Mayne Lande and all and every the Premisses herein before named Wee Doe for us our heires and successors create and incorporate into One Province or Countie And Wee Doe name ordeyne and appoynt that the porcon of the Mayne Lande and Premisses aforesaide shall forever hereafter bee called and named The Province or Countie of Mayne and not by any other name or names whatsoever with all and singular the Soyle and Groundes thereof as well drye as covered with water and all Waters Portes Havens and Creekes of the Sea and Inletts of the said Province of Mayne and Premisses as to them or any of them belonginge or adjacent as alsoe all Woodes Trees Lakes and Rivers within the said Provynce of Mayne and Premisses and the Lymitts of the same together with the Fisheing of whatsoever kinde as well Pearle as Fishe as Whales Sturgeons or any other either in the Sea or Rivers and alsoe All Royalties of Hawkeing Hunting Fowleing Warren and Chases within the said Province of Mayne and Premisses aforesaid Deere of all sorts and all other Beasts and Fowles of Warren and Chase and all other Beasts there and alsoe All Mynes and Ore of Goulde Silver Precious Stones Tynne Leade Copper Sulphure Brimstone or any other Metall or Mynerall matter whatsoever within the said Province and Premisses or any of them opened or hidden in all Quarries there And all Gould Silver Pearle Precious Stones and Ambergreece whiche shalbee founde within the said Province and Premisses or any of them and the Lymitts and Coasts of the same or any of them or any parte of them or any of them and all and singular other Proflitts Benefitts and Commodities groweing cominge accruing or happening or to be had perceived or taken within the said Province and Premisses Lymitts and Coasts of the same or any of them and alsoe All Patronages and Advowsons Free Disposicons and Donacons of all and every such Churches and Chappells as shalbee made and erected within the said Province and Premisses or any of them with full power lyeense and authority to builde and erecte or cause to be builde and erected soe many Churches and Chappells there as to the said Sir Ferdinando Gorges his heires and assignes shall seeme meete and convenient and to dedicate and conseerate the same or cause the same to bee dedicated and consecrated according to the Ecclesiastical Lawes of this our Realme of England together alsoe with all and singular and as large and ample Rights Jurisdiceons Priviledges Prerogatives Royalties Libertyes Imunities Franchises Preheminences and Hereditaments aswell by Sea as by Lande within the said Province and Premisses and the Precinets and Coasts of the same or any of them and within the Seas belonging or adjacent to them or any of them as the Bishopp of Durham within the Bishopricke or Countie Palatine of Duresme in our Kingdome of England now hath useth or enjoyeth or of right hee ought to have use or enjoye within the said Countie Palatine*

as if the same were herein particularly menconed and expressed To have and to houlde possesse and enjoye the said Province and Premisses and every of them and all and singuler other the Premisses before by theise Presents graunted or menconed or intended to bee graunted with theire and everye of theire rights members and appurtenances unto the said Sir Ferdinando Gorges his heires and assignes To the sole and only use of the said Sir Ferdinando Gorges his heires and assignes forever To hee houlden of us our heires and successors as of the Mannor of East Greenwich in the Countie of Kent by Fealty onely in fee and common Soecage and not in Capite nor in Knights Service for all manner of service whatsoever Yieldeing and Payeing therefore yearlye to us our heires and successors one Quarter of Wheate And alsoe Yieldeing and Payeing to us our heires and successors the fiftte parte of the cleere yearlye profitts of all Royall Mynes of Goulde and Silver that from tyme to tyme and att all tymes hereafter shalbee there gotten and obteyned (if anysuche shalbee there founde) and the fiftte parte of all Goulde and Silver founde uppon the Sea Shoare or in Rivers or elsewhere within the boundes and lymitts of the said Province and Premisses and the fiftte parte of the cleere yearlye profitte of Pearle Fisheing And Wee Doe for us our heirs and successors further Graunte unto the said Sir Fardinando Gorges his heires and assignes forever All Treasure Trove Goodes and Chattells of Felons and of Felons of themselves Waifes Estrayes Pyrats Goodes Deodands Fynes and Amerciaments of all the Inhabitants and others happening groweing or arisinge in the said Province and other the Premisses or any part thereof or in any Voyage or Passage to or from the same aswell for Offences committed against our selfe our heires and successors or things concer inge our selfe our heires or successors or our profit as against others or things concerninge others or the profitts of others and all and all maner of Wrecks of Shipps or Merchandize and all that which to wrecke belongeth by what means soever happening within or uppon the Havens Coasts Creeks or Shoares of the Premisses or any parte thereof And Wee Doe for us our heires and successors create ordeyne and constitute the said Fardinando Gorges his heires and assignes the true and absolute Lords and Proprietors of all and every the aforesaid Province of Mayne and Premisses aforesaid and all and every the Lymitts and Coasts thereof Savinge always the faith and allegiance and the supream Dominion due to us our heires and successors And for the better government of such our Subjects and others as att any tyme shall happen to dwell or reside within the said Province and Premisses or passe to or from the same our will and pleasure is that the Religion nowe professed in the Church of England and Ecclesiasticall Government nowe used in the same shalbee forever hereafter professed and with asmuch convenient speede as may bee settled and established in and throughout the said Province and Premisses and every of them And Wee Doe for us our heires and successors by theise Presents give and graunte unto the said Sir Fardinando Gorges his heires and assignes power and authority with the assent of the greater parte of the Freeholders of the said Province and Premisses for the tyme being (when there shalbee any) whoe are to bee called ther-unto from tyme to tyme when and as often as it shalbee requisite to make ordeyne and publish Lawes Ordinances and Constituecons reasonable and not repugnant or contrary but agreeable (as neere as conveniently may bee) to the Lawes of England for the publique good of the said Province and Premisses and of the Inhabitants thereof by imposing of penalties imprisonments or other coneccons (or if the offence shall require) by taking away of life or member the said Lawes and Constituecons to extend aswell to such as shalbee passing unto or returning from the said Province and Premisses as unto the Inhabitants and Residents of or within the same and the same to bee put in execucon by the said Sir Fardinando Gorges his heires or assignes or by his or theire Deputies Lieutenants Judges Officers or Ministers in that behalfe lawfully authorized and the same Lawes Ordinances and Constituecons or any of them to alter change revoke or make voyde and to make new not

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as the said Sir Fardinando Gorges his heires or assignes together with the said Freeholders or the greater parte of them for the tyme being shalbee from tyme to tyme thought fitt and convenient And Wee Doe further by these Presents for us our heires and successors give and graunte unto the said Sir Fardinando Gorges his heires and assignes full power and authoritie and that itt shalbee lawefull to and for him the said Sir Fardinando Gorges his heires and assignes to erect Courtes of Justice aswell ecclesiasticall as civill and temporall whatsoever and to appoynt and constitute from tyme to tyme Judges Justices Magistrates and Officers as well of the said Courte and Courtes of Justice as otherwise aswell by Sea as by Lande for the hearing and determining of all manner of Causes whatsoever within or concerning the said Province and Premisses or any of them or the Inhabitants or Residents there and Passengers to or from the same aswell by Lande as by Sea and to order and appoynt what matters or thinges shalbee heard determyned done or ordered in anie of the said Courtes or by any of the said Judges Magistrates and Officers with such power and in such forme as it shall seeme good to the said Sir Fardinando Gorges his heires and assignes And the said Judges Justices Magistrates and Officers and every or any of them from time to time to displace and remove when the said Sir Fardinando Gorges his heires or assignes shall thinke fitt an! to place others in their roomes and steed And that the Inhabitants and Residents within the said Province and Premisses and Passengers to and from the same may within fortie days after sentence given in the said Courtes (where appeales in like Courtes within this Kingdome are admitted) appeale to the said Sir Fardinando Gorges his heires or assignes or his or their generall Governour or Chiefe Deputie of the said Province and Premisses for the tyme being To whome Wee Doe by these Presents for us our heires and successors give full power and authoritie to proceede in such Appeals as in like case of Appeals within this our Realme of England And Wee Doe further for us our heires and successors give and graunte unto the said Sir Fardinando Gorges his heires and assignes full power and authoritie to pardon remitt and release all offences and offenders within the said Province and Premisses against all and every or any the said Lawes Ordynances or Constitucons and to doe all and singular other thinges unto the execucon of Justice apperteyning in any Courte of Justice according to the forme and manner of proceeding in such Courtes to be used although in these our Letters Patents there bee noe particuler mencon of the same But Wee Doe nevertheless hereby signifie and declare our will and pleasure to bee the powers and authorities hereby given to the said Sir Fardinando Gorges his heires and assignes for and concerning the Governement both Ecclesiasticall and Civill within the said Province and Premisses shalbee subordinate and subject to the power and reglement of the Lords and other Commissioners here for furraigne Plantacons for the tyme being but for all and whatsoever doth shall or maye concerne the proprietie of the said Province Partes and Coastes of the same or any of them or any Owner Shipp or Interest in any Landes Tenements or other Hereditaments Goodes or Chattells or the nomynateing or appoynting of any Officer or Officers the same is left wholelie to the said Sir Fardinando Gorges his heires and assignes according to the tenor intent and true meaning of these Presents And because such Assemblies of Frecholders for makinge of Lawes cannot alwayes bee soe suddenly called as there may bee occasion to require the same Wee Doe therefore for us our heires and successors give and graunte unto the said Sir Fardinando Gorges his heires and assignes full power and authoritie that hee the said Sir Fardinando Gorges his heires and assignes by him and themselves or by his or their Deputies Magistrates or Officers in that behalfe lawfully constituted shall or maye from tyme to tyme make and ordeyne fitt and wholesome Ordinances within the said Province or Premisses aforesaid to bee kepte and observed as well for the keepinge of the peace as for the better governement of the people there abide-

ing or passing to or from the same and to publishe the same to all to whome itt maye concerne which Ordinances Wee Doe for us our heires and successors straightly comand to bee inviolably observed within the said Province and Premisses under the penaltie therein expressed soe as the same Ordinances bee reasonable and not repugnant or contrary but as neere as may bee agreeable to the Lawes and Statutes of our Kingdome of England and soe as the same Ordinances doe not extend to the hindering chargeing or takeing away of the right or interest of any person or persons in their lives members Freeholdes Goodes or Chattells whatsoever And because in a Country soe farr distant and seate i amongst soe many barbarous nations the Incur-sions or Invasions aswell of the barbarous people as of Pirates and other enemies maye be justly feared Wee Doe therefore for us our heires and successors give and graunte unto the said Sir Fardinando Gorges his heires and assignes full power and authoritie that hee the said Sir Fardinando Gorges his heires and assignes aswell by him and themselves as by his and their Deputyes Captaynes or other Officers for the tyme being shall or lawfullye maye muster leavie rayse armes and employe all person and persons whatsoever inhabiteing or resideing within the said Province or Premisses for the resisting or withstanding of such Enymies or Pyrates both att Lande and att Sea and such Enimies or Pyrates (if occasion shall require) to pursue and prosecute out of the lymitts of the said Province or Premisses and then (if itt shall soe please God) to vanquishe apprehende and take and being taken either according to the Lawe of armes to kill or to keepe and preserve them att their pleasure And likewise by force of armes to recover from any person or persons all such Territories Domyinions Landes Places Goods Chattels and Wares which hereafter shalbee taken from the said Sir Fardinando Gorges his heires or assignes or from his or their Deputyes Officers or Servants or from any the Plantors Inhabitants or Residents of or within the said Province or Premisses or from any other Members Aydors or Assistors of the said Sir Fardinando Gorges his heires or assignes or from any other the subjects of us our heires and successors or others in amitie with us our heires and successors in the said Province and Premisses and Coasts or any of them or in their passage to or from the same And Wee Doe further for us our heires and successors give and graunte unto the said Sir Fardinando Gorges his heires and assignes in case any Rebellion sudden tumult or mutynie shall happen to arise either uppon the said Lande within the said Province and Premisses or any of them or Coastes of the same or uppon the mayne Sea in passing thither or returning from thence or in any such expedieon or service as aforesaid itt shall and may be lawefull to and for the said Sir Fardinando Gorges his heires and assignes as well by him and themselves as by his and their deputies Captaynes or other Officers under his or their seale in that behalfe to bee authorised (to whome wee alsoe for us our heires and successors doe give and graunte full power and authoritie to doe and execute the same) to use and execute martial lawe against such Rebels Traytors Mutyners and Seditious Persons in as ample manner and forme as anie Captayne Generall in the Warrs or as any Lieutenante or Lieutenants of any Countie within this our Realme of England by vertue of his or their Office or Place maie or have beene accustomed in tyme of Warre Rebellion or Mutynie to doe and performe And Wee Doe for us our heires and successors further give and graunte unto the said Sir Fardinando Gorges his heires and assignes and to all and every Commander Governour Officer Minister Person and Persons which shall by the said Sir Fardinando Gorges his heires or assignes bee thereunto authorized or appoynted leave lycense and power to erect rayse and builde from tyme to tyme in the Province Territories and Coastes aforesaid and every or any of them such and soe manie Forts Fortresses Platforms Castles Cities Townes and Villages and all Fortificacions whatsoever and the same and everie of them to fortifie and furnishe with men Ordynances Powder Shott Armour and all other Weapons Munition and Habilliments of Warr both for defence and offence whatso-

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ever as to the said Sir Fardinando Gorges his heirs and assigns and everie or anie of them shall seeme meete and convenient And likewise to committ from tyme to tyme the Government Custody and defence thereof unto such person and persons as to the said Sir Fardinando Gorges his heires and assigns shall seeme meete and to the said severall Citties Borroughes and Townes to graunte Letters or Charters of Incorporacons with all Libertyes and thinges belonging to the same and in the said severall Cittyes Borroughes and Townes to constitute suche and soe manie Marketts Marts and Fayres and to graunte such meete Tolles Customes Dutyes and Priviledges to or with the same as by the said Sir Fardinando Gorges his heires or assigns shalbee thought fitt And for that Plantacons are subjecte to diverse difficulties and discommodities Therefore Wee favouring the present beginning of the said Plantacon and having a provident care that those whoe are greived in one thing may bee releived in another Doe of our especiall grace certeyne knowledge and meere mocon for us our heires and successors give and graunte unto the said Sir Fardinando Gorges his heires and assigns and to all other our subjects the Dwellers or Inhabitants that shall att any tyme hereafter bee the Plantors of or in the said Province or any of the Premisses free Lyceuse and Libertie for the ladeing bringing in and unladeing or otherwise disposing of all the Wares Merchandize Profitts and Comodities of the said Province or any the Premisses both by sea and lande either by themselves or their Servants Factors or Assignes in any of the Portes of us our heires and successors within our Kingdomes of England and Ireland payeing onely such Customes Subsidies and Dutyes as our naturall subjects of this our Realme of England shall or ought to paye and none other and to have and enjoye all such Liberties Freedomes and Privyldges for or concerning the exporting of the same agayne without payement of any more Customes or Dutyes and for having agayne of Imposts in such manner and in the like beneficiall sorte as any of our naturall subjects of this our Realme shall then have and enjoye And Wee Doe alsoe for us our heires and successors give and graunte unto the said Sir Fardinando Gorges his heires and assigns full and absolute power and authoritie to make erect and appoynt within the said Province and Premisses such and soe many Portes Havens Creekes and other Places for the ladeing and unladeing of Shippes Barques and other Vessells and in such and soe many places and to appoynt such Rights Jurisdiceons Priviledges and Libertyes unto the said Portes Havens and Creekes belonging as to him or them shall seeme meete and that all and singuler Shippes Boyes Barques and other Vessels to bee laden and unladen in any way of Merchandize shalbee laden or unladen att such Portes Havens and Creekes soe by the aforesaid Sir Fardinando Gorges his heires or assigns to be erected and appoynted and not elsewhere within the said Province Premisses and Coastes and to appoynt what reasonable Tolles shalbee paid for the same and the same Tolles to receive take and enjoye to the said Sir Fardinando Gorges his heires and assigns to his and their use without accompte to bee therefore made to us our heirs or successors any use custome matter or thinge to the contrary thereof notwithstandinge Savinge allwayes to all our Subjects of this our Kingdome of England Libertie of Fisheing aswell in the sea as in the Creekes of the said Province and Premisses aforesaid and the Priviledge of Salteing and dryeing of their Fische and Dryeing their netts upon the Shoare of the said Province and any the Premisses any thinge to the contrary thereof notwithstanding which said Liberties and Priviledges our pleasure is that the said subjects of us our heires and successors shall enjoye without any noteable damage or injurie to bee done to the said Sir Fardinando Gorges his heires and assigns or the Inhabitants of the said Province or any of the Premisses or in any of the said Portes Creekes or Shoares aforesaid but chiefly in the Woodes there groweing And Wee doe further for us our heires and successors give and graunte unto the said Sir Fardinando Gorges his heires and assigns full power and authoritie to divide all or anie parte of the Territories hereby graunted or meneoned to bee graunted as aforesaid

into Provinces Counties Citties Townes Hundreds and Parishes or such other partes or poredons as hee or they shall thinke fitt and in them every or any of them to appoynt and allot out such poredons of Lande for publike uses Ecclesiasticall and Temporal of what kinde soever and to distribute graunte assigne and sett over such particuler poredons of the said Territories Counties Landes and Premisses unto such our subjects or the subjects of any other State or Prince then in anytie with us our heires or successors for such estates and in such manner and forme as to the said Sir Fardinando Gorges his heires or assignes shall seeme meete and convenient and the said person and persons according to the said Estate and Estates soe assigned and graunted to have and enjoye the same and to make erect and ordeyne in and uppon the said Province and Premisses or in and uppon any of them or any parte or parcell of them soe many severall and distincte Mannors as to the said Sir Fardinando Gorges his heires and assignes from tyme to tyme shall seeme meete and to the same severall Mannors to assigne lymitt and appoynt soe muche lande distinctely and severallie for demesne Landes of the said severall Mannors and every of them as to the said Sir Fardinando Gorges his heires and assignes shall and may seeme necessary and fitt and the said Mannors or any of them to call by such name and names as the said Sir Fardinando Gorges his heires and assignes shall please the said Mannors to bee houlden of the said Sir Fardinando Gorges his heires and assignes by such services and Rents as to him or them shall seeme meete And alsoe that the said Sir Fardinando Gorges his heires and assignes shall and may att their pleasure graunte in freehoule soemuch of the said demesne Landes Tenements and Hereditaments belonging or to bee belonging to any of the said Mannors to any person or persons their heires or assignes for and under such rentes and services as to the said Sir Fardinando Gorges his heires or assignes shalbee thought fitt to bee houlden of the said Sir Fardinando Gorges his heires and assignes as of the said Mannors or any of them respectively The Acte of Parliament made and enacted in the eighteenth yeare of King Edward the First commonly called (Quia Emptores Terrarum) or any other Statute whatsoever or any other matter or thinge whatsoever to the contrary thereof in any wise notwithstandinge And that hee the said Sir Fardinando Gorges his heires and assignes shall have houlde and keepe within the said severall Mannours soe to bee erected suche and soe many Courtes aswell Courte Leetes as Courtes Barons as to our Lawes and Statutes of England shalbee agreeable And Wee Doe further for us our heires and successors give and graunte unto the said Sir Fardinando Gorges his heires and assignes for ever all Admirall Rights Benefitts and Jurisdiceons and likewise all Priviledges and Commodities to the said Admirall Jurisdiceons in any wise belonging or apperteyning in and uppon the Seas Rivers and Coastes of or belonging to the said Province and Premisses or every or any of them or to the same adjoyneing within twentie leagues of the said Province and Premisses or any of them and in and uppon all other Rivers and Creekes thereof And likewise power to heare and determine all manner of Pleas for and concerning the same Saving allwayes to us our heires and successors and to the Lord High Admirall of England for the tyme being of us our heires and successors all and all manner of Jurisdiceons Rights Powers Benefitts and authorities whatsoever incident or belonging to the said office of Admirall which itt shalbee lawfull from tyme to tyme to us our heires or successors or the Lord High Admirall of England for the tyme being to have use and exercise within the said Province and Premisses and the Seas or Rivers thereof or within twentie leagues of the same as aforesaid when wee shall thinke fitt And Wee Doe for us our heires and successors give and graunte unto the said Sir Fardinando Gorges his heires and assignes full power and authoritie att any time or times hereafter by him or themselves or by his or their Deputies to administer reasonable oathes to all Judges Justices Magistrates and other officers whatsoever by the said Sir Fardinando Gorges his heires and assignes his or their deputies to be elected att the

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shall have full power and authoritie aswell by him and themselves as by his or their deputie or other Chiefe Magistrate or Officer by him or them to bee in that behalfe appointed to give and administer reasonable oathes to all or any person or persons of what degree or qualitie soever employed or to be employed in or about the said Province Premisses and Territories aforesaid or anie of them or in or about the Coasts of the same And likewise to all or any Inhabitants and others that shalbee or remayne within the said Province and Premisses or any of them for the true and faithfull execucon and performauce of their severall charges and places or for the exaiacon and cleareing the truth and likewise for the Informacon and better direcon of his and their judgments in any matter or cause whatsoever concerning the said Sir Fardinando Gorges his heires or assignes or any Inhabitant member or Person belonging or repaying unto the said Province and Premisses or any of them or any parte of them And in all causes Accons Suits and Debates there to bee begun and prosecuted as the nature of the cause shall require And further of our more espeeciall grace certeyne knowledge and meere mocon Wee Doe hereby for us our heires and successors graunte unto the said Sir Fardinando Gorges his heires and assignes that itt shall and may bee lawfull to and for the said Sir Fardinando Gorges his heires and assignes and every of them from tyme to tyme to sett to Sea such and soe many Shippes Pinnaces Barges Boates and other Vessells as shalbee thought fitt by the said Sir Fardinando Gorges his heires and assignes prepared and furnished with Ordinances Artillery Powder Shott Victualls Municon or other Weapons or Abiliments of Warr aswell invasive as defensive in warlike manner or otherwise and with such number of Men Weomen and Children as the said Sir Fardinando Gorges his heires or assignes shall thinke fitt such voyage into the said Islands and Places or any parte thereof aswell for the Plantacon and Fortificacon thereof as otherwise And that these Presents shalbee a sufficient Lycense and Warrant for any person or persons that shalbee by him or them sent and ymployed thither to goe beyonde the Seas and in that manner soe as the persons soe to bee shipped sent or transported as aforesaid bee not such as are or for the tyme being shalbee prohibited by Proclamacon of us our heires or successors or by any order or orders of the Lords or others Commissioners for Forraigne Plantacons for the tyme being And Wee Doe for us our heires and successors further graunte to and with the said Sir Fardinando Gorges his heires and assignes that onely hee the said Sir Fardinando Gorges his heires and assignes and his and their Factors Agents and such as shalbee employed sent lycensed or allowed by him or them and noe other person or persons whatsoever excepte before excepted shall repayre or goe into the said Province of Mayne and Premisses aforesaid and the places within the lymitts and coasts thereof or any of them to dwell inhabite or abide there nor have use or enjoye the libertie use and priveledges of trade or traffique unto in or from the said Province and Premisses or any of them or buying selling bartering or exchangeing for or with any Wares Goodes or Merchannidizes there whatsoever And likewise that itt shall and may bee lawfull to and for the said Sir Fardinando Gorges his heires and assignes and for all and every other person and persons that shalbee lycensed or allowed by the said Sir Fardinando Gorges his heires or assignes from henceforth and at all other tymes and from tyme to tyme after the date of these our Letters Patents according to the orders and constitucions of the said Sir Fardinando Gorges his heires and assignes not being repugnant to our Proclamacons and Orders of the Lords and others our Commissioners as aforesaid to take convey carrie and transport for and towards the Plantacon of the said Province and Premisses or any of them or to bee used there or in the passage thither or returning from thence and there to leave abide and inhabite all such and soe many of our loveing subjects or any other Strangers that will become our subjects

and live under our alleagiance as shall willingly transport themselves or bee transported thither and that such our subjects or Strangers may together with their persons send carrie or convey thither aswell Shipping Armour Weapons Ordinance Municon Powder Shott and Habiliments of Warr as Victualls Canvas Linnen Woollen Cloath Tooles Ymplements Furniture Twyne and Pullen Goodes Wares and Merchandizes of all kindes and sortes whatsoever fitt and necessary for the foode lyvelihood habitacon apparrell or Defence of our subjects which shall there inhabite and bee and all other Wares Merchandizes and Goods whatsoever not prohibited by the Lawes or Statutes of this our Kingdome payeing customes and other duties as other our subjects doe in such cases And of our further Royall favour Wee Have graunted And by these Presents for us our heires and successors Wee Doe graunte unto the said Sir Fardinando Gorges his heires and assignes that the aforesaid Province Rivers and Places hereby before menconed to bee graunted or any of them shall not bee traded in or unto nor inhabited by any of the subjects of us our heires and successors without the speeciall lycense of the said Sir Fardinando Gorges his heires and assignes And therefore Wee Doe hereby for us our heires and successors charge and comand prohibite and forbidd all the subjects of us our heires and successors of what degree qualitie or condicon soever they bee that none of them directlie or indirectlie presume to trade or adventure to traffique into or from nor to inhabite or abide in the said Province of Mayne Island Dominion and Places hereby menconed or intended to bee graunted or any of them other then the said Sir Fardinando Gorges his heires and assignes and his and their deputies and factors unles itt bee with the license and consent of the said Sir Fardinando Gorges his heires and assignes first had and obteyned in that behalf in writeinge under his and their hands and scales under payne of our indignacon and alsoe of suche penaltyes and punishments as by the Lawes and Ordinances of the said Sir Fardinando Gorges his heires and assignes to bee made in that behalfe shalbee appoynted And Wee Doe further for us our heires and successors graunte unto the said Sir Fardinando Gorges his heires and assignes that all and every the persons being the subjects of us our heires and successors which shall goe or inhabite within the said Province and Premises or any of them and all and everie the children and posteritie descending of English Scottish or Irish Parents which shall happen to bee borne within the same or uppon the seas in passing thither or from thence from henceforth ought to bee and shalbee taken and reputed to bee of the alleagiance of us our heires and successors and shalbee and soe shalbee forever hereafter esteemed to bee the naturall borne subjects of us our heires and successors and shalbee able to pleade and bee ympleaded and shall have power and bee able to take by discent purchase or otherwise Landes Tenements and Hereditaments and shall have and enjoy all Liberties Franchises and Immunityes of or belonging to any the naturall borne subjects of this our Kingdome of England within this our Kingdome and within all or anie other of our Domynions to all intents and purposes as if they had beene abydeing and borne within this our Kingdome or any other of our Dominions And Wee Doe further for us our heires and successors give full power and authoritie to the said Sir Fardinando Gorges his heires and assignes or any person or persons to bee thereunto nominated by the said Sir Fardinando Gorges his heires or assignes to minister and give Oathes of Alleagiance and supremacie according to the formes now established in this our Realme of England to all and every such person and persons as they shall thinke fitt that shall att any tyme or tymes goe or passe into the said Province and Places or any of them or shalbee resident or abiding there And our further Will and pleasure is and Wee Doe by these Presents for us our heires and successors Covenant promise and graunte to and with the said Sir Fardinando Gorges his heires and assignes that if hee the said Sir Fardinando Gorges his heires or assignes shall att any tyme or tymes hereafter uppon any doubte which hee or they shall conceave concerning the validitie and

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Grant, Sale, and
transfer of the Pro-
vince of Maine.

Grantly Charles
I to Sir Ferd.
Gorges.

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vince of Maine.

Granted by Charles
I. to Sir Ferd.
Gorges.

strength of this our present graunte bee desirous to renewe the same from us our heires or successors with amendment of such ymperfecons and defects as shall appere fitt and necessary to bee reformed and amended by us our heires and successors that then upon the humble petition of the said Sir Fardinando Gorges his heires and assignes such further and better assurance of all and singuler the Premisses hereby graunted or menconed or intended to bee graunted according to the true meaneing of these our Letters Patents shall from tyme to tyme by us our heires and successors bee made and graunted unto the said Sir Fardinando Gorges his heires and assignes as by the Attorney Generall of us our heires and successors for the tyme being and the Learned Councell of the said Sir Fardinando Gorges his heires and assignes shall in that behalfe bee reasonably devised or advised And further Wee Doe hereby for us our heires and successors chardge and commaunde all and singuler Admiralls Vice-admiralls Generalls Comaunders Captaynes Justices of Peace Maiors Sheriffs Bayliffs Constables Customers Comptrollers Collectors Waiters Searchers and all other the officers and Ministers of us our heires and successors whatsoever aswell nowe as hereafter for the tyme being to bee from tyme to tyme in all things aydeing and assisting unto the said Sir Fardinando Gorges his heires and assignes and to his and their officers Factors and agents and to every or any of them upon request made as they tender our pleasure and will avoyde the contrary att their perills And Wee Doe will and for us our heires and successors Doe declare and ordeyne that the said Province and Premisses shalbee ymediately subject to our Crowne of Englande and dependant upon the same for ever And further Wee Will and by these Presents for us our heires and successors Doe graunte to the said Sir Fardinando Gorges his heires and assignes that these our Letters Patents or the enrollment of them shalbee in all things and to all intents and purposes firme good effectuell and sufficient in the lawe against us our heires and successors aswell in all Courts as elsewhere within our Kingdome of England or in any other our Kingdomes and Domynions as in the said Province and Premisses aforesaid or in any of them and shalbee construed reputed and taken aswell according to the true meaning and intent as to the wordes of the same most benignely favorably and beneficially to and for the said Sir Fardinando Gorges his heires and assignes (noe interpretacon being made of any worde or sentence Whereby Gods worde true Christian Religion now taught professed and maynteyned the fundamentall Laws of this Realme or Allegiance to us our heires or successors may suffer prejudice or diminueon) any omission misinformacon want of certaine expresse of the contents lymitts and boundes or the eerteayne seituacoon of the said Province and Premisses aforesaid hereby meant or menconed to be graunted or in what height longitude or degrees the same are or any defect in these Presents or any Lawe Statute or other cause or matter to the contrary notwithstanding And although expresse mencon bee not made of the true yearly value or eerteyntie of the Premisses or any of them and notwithstanding any misnameing and not eerteayne or particuler nameing of the said Province Places Landes Territories Hereditaments and Premisses whatsoever before by these Presents given graunted confirmed or menconed and intended to bee graunted or confirmed or any parte thereof or the misnameing or not nameing or not rightly nameing of the degrees and Coasts wherein or whereupon the same or any of them doe lie or any Acte of Parliament Statute Ordinaunce Proelamacon or restraint heretofore made ordeyned or provided or any other thinge cause or matter to the contrary notwithstanding Nevertheless our intent and meaneing is that out of the Premisses hereby graunted or menconed to bee graunted there shalbee always saved and reserved to all and every such person and persons as have or hath any lawefull graunte or graunts of Landes or Plantacons lawfully settled in the division and Premisses aforesaid the free houlding and enjoyeing of his and their right with the Liberties thereunto apperteyning hee or they relinquishing and layeing downe all his or their Jura Regalia (if hee or they have any) to the

said Sir Fardinando Gorges his heires and assignes whome wee have hereby made Proprietor of the Province or Devision and Premisses aforesaid and payeing some small acknowledgement to the said Sir Fardinando Gorges his heires and assignes for that hee or they are now to houlde theire said Landes anew of the said Sir Fardinando Gorges his heires and assignes In Wittnes &c Wittnes our selfe att Westminster the third day of Aprill—

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Granted by Charles I. to Sir Ferd. Gorges.

P. Bre. Privato Sigillo.

This is a true Copy from the Original Record remaining in the Chapel of the Rolls, having been examined.

JOHN KIPLING.

DEED OF FERDINANDO GORGES TO JOHN USHER.

13TH MARCH, 1677.

This Indenture made the thirteenth day of March in the thirtieth year of the Reign of Our Sovereign Lord Charles the Second by the Grace of God of England Scotland France and Ireland King Defender of the Faith &c Annoq Domini 1677 Between Ferdinando Gorges of Clewers in the County of Berks in the Kingdom of England Esqr Son and Heir of John Gorges late of the City of Westminster in the County of Middlesex Esqr Deceased who was Son & Heir of Sir Ferdinando Gorges late of Aston Phillips in the County of Sommersett, Knight, of the one Part, And John Usher, of Boston, in New England in America, Merchant of the other Part: Witnesseth, that the said Ferdinando Gorges for and in consideration of the sum of one thousand two hundred & fifty pounds, of lawful English money to him the said Ferdinando Gorges in hand well and truly paid by the said John Usher at & before the sealing and delivery of these Presents, The Receipt whereof the said Ferdinando Gorges doth hereby acknowledge, & thereof & of every part thereof doth absolutely acquit, discharge & release the said John Usher his heirs, Executors & administrators, and every of them by these Presents, hath granted, bargained & sold, and by these Presents doth grant, bargain & sell unto the said John Usher and his Heirs all that County Palatine, Part, Purparty, or Portion of the Maine Land of New England aforesaid, called or known by the name of the Province or County of Maine, *beginning at the entrance of Piscataqua Harbour & so to pass up the same unto the River of Newichewannock and through the same unto the furthest Head thereof, and from thence Northwestward till one hundred and twenty miles be finished; and from Piscataqua Harbour mouth aforesaid, Northeastward along the Sea Coast to Sagadahock, and up the River thereof to Kynybequy River and through the same unto the head thereof, and into the Land Northwestward untill one hundred & twenty miles be ended, being accounted from the mouth of Sagadahock; & from the period of one hundred & twenty miles aforesaid to cross over land to the one hundred & twenty miles End formerly reckoned up into the Land from Piscataqua Harbour through Newichewannock river: And alsoe the north half of the Isles of Shoales together with the Isles of Capawock & Nautican, near Cape Cod, as also all the Islands and Islets lying within five Leagues of the Maine all along the aforesaid Coasts between the aforesaid Rivers of Piscataqua & Sagadahock, and all lands, grounds, places, soils, woods, waters, rivers, lakes, ports, havens, creeks and harbors, to the said Province, Limits and Premises or any part thereof belonging, or in any wise appertaining, or accepted, or being part parcell or member thereof, And also all and singular Royalties, Fishings, Royall & other Minerals, Mines of Gold & Silver or other metals or*

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mineral whatsoever, Walfes, Estrayes, Pyrates goods, Deodands, Fines, Amerciaments, Wrecks Treasure Trove Goods & Chattels of Felons and Felons of themselves, Jura Regalia, Powers, Rights, Jurisdictions, Ecclesiastical, Civil, Admiral & Military Priviledges, Perogatives, Governments, Liberties, Immunities, Franchises, Authorities, Profits, Prehemineences, & Hereditaments whatsoever, with their and every of their Rights, Members & Appurtenances happening, growing arrising or accruing, or to be exercised, extended or enjoyed within the said Province limits Coasts or other the Premises or any part thereof; and also all other the lands, tenements, Jura Regalia, Powers, Franchises, Jurisdictions, Royalties, Governments, Priviledges & Hereditaments whatsoever granted or mentioned or intended to be granted unto the said Sir Ferdinando Gorges his heirs & assigns by Letters Patents under the great Seal of England bearing date the third day of April in the fifteenth year of the Reign of our late Sovereign Lord King Charles the first, or by any other Letters Patents, charters Deeds or Conveyances whatsoever: And also all other the lands tenements, Royalties, Jurisdictions, Governments, Franchises & Hereditaments whatsoever of him the said Ferdinando Gorges, scituate, lying and being, or happening arrising or accruing or to be exercised or enjoyed within New England aforesaid or elsewhere in America aforesaid, And the Reversion & Reversions Remainder & Remainders, Rents issues, Services & Profits, of all and singular the Premises, & every Part & parcell thereof; and all the Estate, title, interest, equity, trust, claim & demand whatsoever, of him the said Ferdinando Georges of in & unto the Premises & every part and parcell thereof, To have and to hold the said County Palatine, Lands, Tenements, Jurisdictions, Governments, Franchises, Hereditaments & Premises therein before expressed and intended to be hereby granted, bargained, sold & conveyed, and every part and parcell thereof, with their and every of their Rights, Members & Appurtenances unto the said John Usher his heirs and assigns; To the only use and behoof of the said John Usher his heirs and assigns forever, And the said Ferdinando Gorges for himself his heirs, Executors and administrators, and every of them, doth covenant, Promise & grant to and with the said John Usher, his heirs and assigns by these Presents, That he the said Ferdinando Gorges (notwithstanding any act, matter or thing by him the said Ferdinando Gorges or the said John Gorges his late Father deceased, or the said Sir Ferdinando Gorges done, executed or suffered to the contrary) now is and standeth seized of an absolute, perfect & indefeasable Estate of inheritance in fee simple of and in the said County Palatine, Lands tenements, Jurisdictions Governments, Franchises, Hereditaments and Premises hereby granted & conveyed, and every part & parcell thereof, with their & every of their Rights, Members and appurtenances, without any manner of Conditions, Restraint, Contingency, Limitation or Power of Revocation to alter change, Clog, Evict or Determine the same, and also that the said Ferdinando Gorges for and notwithstanding any act or thing as aforesaid, now hath full power, true title, real interest, and absolute authority to grant and convey the said County Palatine, Lands, Tenements, Jurisdictions, Governments, Franchises, Hereditaments & Premises, & every part & parcell thereof with their & every their Rights, members & appurtenances unto the said John Usher his Heirs & assigns, as in & by these Presents is mentioned & expressed. And Further, that the said County Palatine, Lands, Tenements, Jurisdictions, Governments, Franchises, Hereditaments & Premises, hereby conveyed or mentioned & expressed to be hereby conveyed, at the time of the sealing & delivery of these premises are & so at all times hereafter shall remain, continue & be, to the said John Usher his heirs & assigns free and clear, and freely & clearly acquitted, Discharged and indemnified or otherwise sufficiently & effectually saved harmless of and from all manner of former and other Gifts, Grants, Bargains, Sales, Wills, Entales, Mortgages, Rents, Charges, arrearages of Rents, Fines, Amerciaments, Statutes, Recognizances, Judgements, debts & accompts to the King's Majesty, Intrusions, Seizures,

Extents & Executions & of and from all and singular other charges, estates, titles, troubles, incumbrances & demands whatsoever, had, made, committed, procured, occasioned, done, or suffered by the said Ferdinando Gorges, or by the said John Gorges, late Father of the said Ferdinando Gorges, or by the said Sir Ferdinando Gorges, or by any other person or persons whatsoever, claiming by, from, or under him, them, either or any of them except all Leases, Grants & conveyances of any Lands, parcell of the Premises bona fide made by the said John Gorges deceased, or by the said Sir Ferdinando Gorges, in order to the Planting of the same Province, upon which is reserved respectively some acknowledgment, rent, duty or service; And also except one indenture of grant & Conformation made by the said Ferdinando Gorges unto one Nathaniel Phillips of Parcell of the premises, bearing date the sixth day of May in the two & twentieth year of his now Majesty's Reign, & to the Heirs of the said Phillips; and the said Ferdinando Gorges, for himself his heirs, executors & administrators doth Covenant, promise & grant to and with the said John Usher, his heirs & assigns, by these Presents, that he the said Ferdinando Gorges, his heirs & assigns, and all & every other person & persons lawfully having, claiming or deriving any manner of Estate, Right, Title, Interest, Equity, Trust or Demand whatsoever, of in or to the said County Palatine, Lands, Tenements, Jurisdications, Governments, Franchises, Hereditaments & premises hereby conveyed or mentioned or intended to be hereby conveyed & every part and parcell thereof, with their & every of their rights, members & appurtenances, by from, or under him the said Ferdinando Gorges or John Gorges deceased or by, from or under the said Sir Ferdinando Gorges, either or any of them (except as before excepted) shall and will, from time to time, and at all times, hereafter during the space of seven years next ensuing the date of these Presents, upon the reasonable request, & at the cost & charges in the law of the said John Usher his heirs or assigns, make, suffer, perfect & execute, or cause & procure to be made suffered perfected & executed all and every such further and other lawful & reasonable act & acts, thing & things, device & devices, conveyances and assurances in the Law, whatsoever, for the further, better, more absolute & effectual surety & sure making of the said County Palatine, Lands, tenements, Jurisdications, Governments, Franchises, Hereditaments & premises with their & every of their Rights, members & appurtenances unto the said John Usher his heirs & assigns, according to the true intent & meaning of these presents, be it by fine or fines, with proclamations, recovery or recoveries, deed or deeds enrolled, the enrollment of these presents, release, conformation or otherwise, or by all or as many Ways or Means whatsoever as by the said John Usher his heirs & assigns or his & their Councill learned in the Law, shall be reasonably devised, advised or required so as no further or other Warranty or Covenant be therein contained or implied than against such person and persons respectively who shall be so required to make the same, and so as such person & persons be not compelled or compellable to travail further for the Doing thereof than the place of his or their Habitation. In Witness whereof the parties above named in these Indentures have interchangeably set their hands & seals the day and year first above written,

FERDINANDO GORGES

And a Seal appendant.

Endorsed, Sealed & delivered with these Words (and also except one Indenture of Grant & Confirmation made by the said Ferdinando Gorges unto one Nathaniel Phillips, of parcell of the Premises, bearing date the sixth day of May in the two & twentieth year of his now Majesty's Reign, and to the heirs of the said Phillips) interlined between the eight & thirtieth & nine & thirtieth Lines of this Indenture,

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Appendix. before the insecaling & delivery thereof in the presence of us Robert Lee, Richard
No. 11. Penner, John Phillips, Robert Humphries, William Hawkins

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Irrotulatur in Memorand: Saci: Dni: Regis Caroli Sedi: apud Westminster
(viz:) de Termno: Paschæ: Anno tricessimo *Rolle: eg: pte:* Remen-
dator ejusd: Dni: Regis.

CUGGINS

That this is a true Copy compared by myself Mr Cooke & Mr Addington to
the best of our understanding, as to the recording it in Court hand, the Deed, Word
for Word with its original, the Second of April 1683, as

Attest, EDWARD RAWSON *Sec.*

COMMONWEALTH OF MASSACHUSETTS,

SECRETARY'S OFFICE, *May 5, 1828.*

I hereby certify, that the foregoing paper is a true and exact copy of record,
as the same is recorded in this Office, in a volume bearing the Title of
"Crown Commission Book," and that a similar copy is on file. I fur-
[L. S.] ther certify, that the original Instrument, of which the preceding pur-
ports to be a Copy, is not, as far as I am able to discover, in the
Archives of State of this Commonwealth, nor to my knowledge is it
in existence; and that the Copies above-mentioned, are the only Copies
on the records or files of this Office.

In testimony of which, I have hereunto affixed the Seal of the Com-
monwealth, in my custody and possession.

EDWARD D. BANGS,

Secretary of the Commonwealth.

DEED OF JOHN USHER

TO THE MASSACHUSETTS BAY COMPANY, 1677.

Deed of John
Usher to the Mas-
sachusetts Bay
Company

THIS INDENTURE made the fifteenth day of March in the thirteenth year of the
reign of Our Sovereign Lord Charles the Second by the grace of God of England
Scotland France and Ireland King Defender of the Faith &c. Annoq. Domini 1677
between John Usher of Boston in New England in America Merchant, of the one
part and the Governour and Company of the Massachusetts Bay in New England of
the other part Witnesseth That the said John Usher for and in consideration of
the sum of one thousand two hundred and fifty pounds of Lawful English Money to
him the said John Usher in hand well and truly paid by the said Governour before
the sealing and delivery of these Presents the receipt whereof the said John Usher
doth hereby acknowledge and thereof and of every part thereof doth absolutely exhon-
erate, acquit and discharge the said Governour and Company and their Successors, by
these presents, hath granted, bargained, sold, released, and confirmed and, by these
Presents, doth grant, bargain, sell, release and confirm unto the said Governour and
Company, their successors and assigns forever, all that County Palatine, Part, Pur-
port or portion of the Maine Land of New England aforesaid, called or known by the
name of the Province or County of Main, *beginning at the entrance of the Piscataqua
harbour, and so to pass up the same into the River of Newickewanoche and through*

the same unto the further head thereof; And from thence Northwestward untill one hundred and twenty miles be finished; And from Piscataqua Harbour mouth aforesaid Northeastward along the Sea Coast to Sagadahoc and up the River thereof to the Kenebeguy River, and through the same unto the head thereof and into the land Northwestward untill one hundred and twenty miles be ended, being accounted from the mouth of Sagadahoc, and from the Period of one hundred and twenty miles aforesaid, to cross over land to the one hundred and twenty miles end formerly reckoned up into the land, from Piscataqua Harbour through Newichewanoche River, and also the North half of the Isles of Shoales together with the Isles of Cupawock and Nautican near Cape Cod as also all the Islands and Islets lying within five leagues of the Moine, all along the aforesaid Coast between the aforesaid rivers of Piscataqua and Sagadahoc and all Lands, Grounds, Places, Soyles, Woods, Waters, Rivers, Lakes, Ports, Havens, Creeks and Harbours to the said Province limits and premises or any part thereof belonging, or in any wise appertaining, or accepted or being part, parcell or member thereof, And also all and singular Royalties, Fishings, Royall and other Minerals, Mines of Gold and Silver, or other Metal or Minerals whatsoever, Waifes, Estrayes, Pirates, Goods, Deodands, Fines Amerciaments, Wrecks, Treasure, Trove Goods and Chattels of Felons, and Felons of themselves; Jura Regalia, Powers, Rights, Jurisdictions, Excelesiastical, Civil, Admiral and Military Privileges, Prerogatives, Governments, Liberties and Immunities, Franchises, Authorities, Profits, Preheminences, and hereditaments whatsoever, with their and every of their Rights, Members and appurtenances happening, growing, arising or accruing, or to be exercised, extended or enjoyed within the said Province Limits, coasts, or other the premises, or any part thereof, with all other the Lands, Tenements and Hereditaments, Royalties and Jurisdictions whatsoever, in New England in America, or elsewhere in America aforesaid, of Sir Ferdinando Gorges Knt., deceased, John Gorges, Esq., deceased and Ferdinando Gorges, Esq. or either of them, in as full and ample manner, to all intents, constructions and purposes as the same were granted and conveyed unto the said John Usher, and his Heirs; and reversion and Reversions, Remainder and Remainders, Rents, Issues, Services and Profits of all and singular the premises, and every part and parcell thereof, and all the Estate, Title, Interest, Equity, Trust, Claim and demand whatsoever of him the said John Usher of in and unto the premises and every part and parcell thereof, together with all Letters Patents, Deeds, Evidences and writings concerning the premises only, or only any part thereof: To HAVE AND TO HOLD the said County Palatine, Lands, Tenements, Jurisdictions, Governments, Franchises, Hereditaments and Premises, herein before expressed and intended to be hereby granted, bargained, sold and conveyed, and every part and parcell thereof with their and every of their Rights, Members and appurtenances, unto the said Governour and Company, their successors and assigns, to the only use and behoof of the said Governour and Company, their successors and assigns, forever, together with all Letters Patents Deeds Evidences, and Writings concerning the Premises only or only any part thereof. And the said John Usher for himself, his heirs, executors and administrators, and every of them, doth covenant, promise and grant to and with the said Governour and Company their successors and assigns by these Presents that he the said John Usher (notwithstanding any Act Matter or thing by him the said John Usher or any claiming by from or under him done executed or suffered to the contrary) now is and standeth seized of an absolute, perfect and indefeasable Estate of inheritance in Fee Simple of and in the said County Palatine, Lands Tenements, Jurisdictions, Governments, Franchises Hereditaments and premises hereby granted and conveyed or mentioned or intended to be hereby granted and conveyed and every part and

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COMMONWEALTH OF MASSACHUSETTS,

Secretary's Office, May 5th, 1828.

I hereby certify that the foregoing paper is a true and exact copy of record, as the same is recorded in this office, in a volume bearing the title of "Crown Commission Book;" which record immediately succeeds that of the instrument of conveyance from Ferdinando Gorges to John Usher, in the same volume; but was not completed, and remains in the said volume in an unfinished state, as appears by the foregoing copy. I further certify, that the original instrument, of which the preceding appears to be, in part, a copy, is not, as far as I am able to discover, in the Archives of State of this Commonwealth; nor, to my knowledge, is it in existence. And that there is not on the records or files of this office any other copy of the instrument of conveyance from John Usher to the Governor and Company of Massachusetts Bay, than the imperfect one, of which the preceding paper is a transcript.

In testimony of which, I have hereunto affixed the seal of the Common-
[L. S.] wealth in my custody and possession.

EDWARD D. BANGS,
Secretary of the Commonwealth.

EXTRACT

FROM THE GENERAL COURT RECORDS UNDER DATE OF OCTOBER 2ND, 1678.

Extracts from
the Massachusetts
Records.

"This Court having voted the acceptance of the bargain of our Agents for the Province of Maine, doe order that the Treasurer take effectuall order for the payment thereof, according to their engagement, and for his enabling therein, that the customes be security to himself and such as shall lay downe the money in the country's behalfe, untill they be fully satisfied for both principall, exchange and loane.

"Also, this Court doth desire the Governor and Council to take order for the improvement, government and disposall of the sayd place, by sale or otherwise, for the reimbursing the sayd money into the country's treasury, as to them shall seeme most meet and best."

COMMONWEALTH OF MASSACHUSETTS,

SECRETARY'S OFFICE, *May 7, 1828.*

I hereby certify, that the above is a true copy from the original records of the General Court of the Colony of Massachusetts Bay, under date of the second of October, Anno Domini one thousand six hundred seventy-eight, (Oct. 2, 1678.)

In testimony of which, I have hereunto affixed the seal of the Common-
[L. S.] wealth in my custody and possession.

EDWARD D. BANGS,
Secretary of the Commonwealth.

At a Generall Court for Elections held at Boston, 28th May, 1679.

"This Court having, in October sessions last, passed a vote empowering our honored Governor and Council to improve or dispose of the Province of Mayne, by sale or otherwise, for reimbursing what money was layd out in England for purchase

thereof, on further consideration doe see cause to recall the sayd vote, and declare they judge meete to keepe the sayd Province in the country's hand, according to contract made by our Commissioners, and untill this Court take further order therein." *Appendix.*
No 11.

Grant. Sale and
transfer of the
Province of Maine

Extracts from
the Massachusetts
Records.

*At a Generall Court specially called by the Governor and Assistants, at Boston,
and held there the 4th of February, 1679.*

"This Court taking into consideration the necessity of a speedy establishing a Government in the Province of Mayne, and the present season requiring a speedy issue of this sessions of Court, the honnoured Council of this jurisdiction is requested and hereby empowered to take order for settling the sayd Government, and appointing a President, with Justices of the Peace and other officers, as is directed in Mr Gorges patent, and to comissionate the same accordingly, under the scale of this Colony; and this to be in force until the next Court of Election here, and untill further order to be taken by this Court therein."

"*In Council, June 4, 1717.*—A petition of John Usher, Esq., was read, and sent down recommended, as to ye petitioner's service in assisting in ye purchase of ye Province of Mayne."

COMMONWEALTH OF MASSACHUSETTS,
SECRETARY'S OFFICE.

I hereby certify that the foregoing are true copies from the fifth and tenth volumes of the Records of the General Court of the Massachusetts Bay, remaining in this office, under the respective dates within given.

[L. S.] In testimony of which, I have hereunto affixed the seal of the said Commonwealth, in my custody and possession, this twentieth day of September, in the year of our Lord one thousand eight hundred and twenty-eight, and of the Independence of the United States of America the fifty-third.

EDWARD D. BANGS,
Secretary of the Commonwealth.

APPENDIX, No. XII.

GRANT TO THE DUKE OF YORK,

AND

DOCUMENTS RELATIVE TO SAID GRANT,

VIZ:

Grant to the Duke of York, dated 12th March, 16 Car: II. 1664.

Confirmation of Ditto. 26, Car: II. 1674.

Commission to Edmund Andros, 1674.

Commission to Thomas Dongan, 1682.

GRANT

TO THE DUKE OF YORK DATED 12TH MARCH, AO: CAR. II. 1664

Appendix. Charles the Second by the Grace of God King of England Scotland France and Ireland
No. 12. Defender of the Faith &c. to all to whom these presents shall come Greet-

ing

Grant to the Duke
of York, and Docu-
ments relative to
said Grant.

Grant to the Duke
of York.

Know yee that wee for divers good causes and consideracons us thereunto moving have of our especiall Grace certaine knowledge and meere motion given granted and by these presents for us our heires and successors do give and grant unto our dearest brother James Duke of Yorke his heires and assigns all that part of the maine land of New England beginning at a certaine place called or knowne by the name of *St. Croix* next adjoyning to New Scotland in America and from thence extending along the sea coast unto a certain place called *Petuaquine* or *Pemaquid* and so up the River thereof to the furthest head of ye same as it tendeth northwards and extending from thence to the River *Kinebequi* and so upwards by the shortest course to the River *Canada* northward and also all that Island or Islands commonly called by the severall name or names of *Matoiwacks* or *Lond Island* seituat lying and being towards the west of *Cape Codd* and ye narrow *Higansetts* abutting upon the maine land between the two Rivers there called or knowne by the severall names of *Conecticut* and *Hudsons River* together also with the said river called *Hudsons River* and all the land from the west side of *Conecticut* to ye east side of *Delaware Bay* and also all those severall Islands called or knowne by the names of *Martin's Vinyard* and *Nantukes* otherwise *Nantuckett* together with all ye lands islands soyles rivers harbours mines minerals quarryes woods marshes waters lakes fishings hawking hunting and flowling and all other royaltties proffitts commodities and hereditaments to the said severall islands lands and premisses belonging and appertaining with there and every of their appurtenances and all our estate right title interest benefitt advantage claime and demand of in or to the said lands and premisses or any part or parcell thereof and the revercon and revercons remainder and remainders together with-

the yearly and other ye rents revenues and proflitts of all and singular the said premisses and of every part and parcell thereof to have and to hold all and singular the said lands islands hereditaments and premisses with their and every of their appurtenances hereby given and granted or hereinbefore menconed to be given and granted unto our dearest brother James Duke of Yorke his heires and assignes forever to the only proper use and behoofe of the said James Duke of Yorke his heires and assignes forever to be holden of us our heires and successors as of our mannor of East Greenwich in our county of Kent in free and common socage and not in capite nor by Knight service yielding and rendring and the said James Duke of Yorke doth for himselfe his heires and assignes covenant and promise to yield and render unto us our heires and successors of and for the same yearly and every year forty Beaver skins when they shall be demanded or within ninety days after and wee do further of our speciall grace certaine knowledge and meere mocon for us our heires and successors give and grant unto our said dearest brother James Duke of Yorke his heires deputies agents commissioners and assignes by these presents full and absolute power and authority to correct punish pardon governe and rule all such the subjects of us our heires and successors from time to time adventure themselves into any of the parts or places aforesaid or that shall or doe at any time hereafter inhabite within the same according to such lawes orders ordinances direcons and instruments as by our said dearest brother or his assignes shall be established and in defect thereof in cases of necessity according to the good direcons of his deputies commissioners officers and assignes respectively as well in all causes and matters capitall and criminall as civill both marine and others soe alwayes as the said statutes ordinances and proceedings be not contrary to but as neare as conveniently may be agreeable to the lawes statutes and government of this our realme of England and saving and reserving to us our heires and successors ye receiving hearing and determining of the appeal or appeales of all or any person or persons, of in or belonging to ye territoryes or islands aforesaid in or touching any judgment or sentence to be there made or given And further that it shall and may be lawfull to and for our said dearest brother his heires and assignes by these presents from time to time to nominate make constitute ordaine and confirme by such name or names stile or stiles as to him or them shall seeme good and likewise to revoke discharge change and alter as well all and singular Governors officers and Ministers which hereafter shall be by him or them thought fitt and needfull to be made or used within the aforesaid parts and islands and also to make ordaine and establish all manner of orders lawes directions instruccions formes and ceremonies of government and magistracy fitt and necessary for and concerning the government of the territoryes and islands aforesaid so alwayes as the same be not contrary to the lawes and statutes of this our Realme of England but as neare as may be agreeable thereunto and the same at all times hereafter to put in excecucion or abrogate revoke or change only within the precincts of the said territoryes or islands but also upon the seas in going and coming to and from the same as he or they in their good discrecons shall thinke to be fited for the good of the adventurers and inhabitants there And wee do further of our speciall grace certaine knowledge and meere mocon grant ordaine and declare that such governors officers and ministers as from time to time shall be authorized and appointed in manner and forme aforesaid shall and may have full power and authority to use and exercise martiall law in cases of rebellion insurrecon and mutinie in as large and ample manner as our Lieutenants in our counties within our Realme of England have or ought to have by force of their commission of Lieutenancy or any law or statute of this our Realme And wee do further by these presents for us our heires and successors grant unto our said dearest brother James Duke of Yorke his heires and assignes that it shall and may be lawfull to and for the said James Duke of Yorke his heires and assignes in his or their discrecons from time to time to admitt such and so many person and persons.

Appendix
No. 12.

Grant to the Duke of Yorke, and Documents relative to said Grant.

Grant to the Duke of York.

Appendix.
No. 12.

Grant to the Duke
of York, and Du
cements relative
to said Grant.

Grant to the
Duke of York.

to trade and traffique unto and within the territoryes and islands aforesaid and into every and any part and parcell thereof and to have possesse and enjoy any lands or hereditaments in ye parts and places aforesaid as they shall thinke fitt according to the lawes orders constitucons and ordinances by our said brother his heires deputies commissioners and assignes from time to time to be made and established by vertue of and according to the true intent and meaning of these presents and under such condicions reservacons and agreements as our said brother his heires or assignes shall set downe order direct and appoint and not otherwise as aforesaid And wee do further of our especiall grace certaine knowledge and meere mocon for us our heires and successors give and grant to our said deare brother his heires and assignes by these presents that it shall and may be lawfull to and for him them or any of them at all and every time and times hereafter out of any of our realmes or dominions whatsoever to take leade carry and transport in and into their voyages and for and towards the plantacons of our said territoryes and islands all such and so many of our loving subjects or any other strangers being not prohibited or under restraint that will become our loving subjects and live under our alegiance as shall willingly accompany them in the said voyages together with all such cloathing implements furniture and other things usually transported and not prohibited as shall be necessary for the inhabitants of the said islands and territoryes and for their use and defence thereof and managing and carrying on the trade with the people there and in passing and returning to and fro yielding and paying to us our heires and successors the customes and duties therefore due and payable according to the lawes and customes of this our Realme And we do also for us our heires and successors grant to our said dearest brother James Duke of Yorke his heires and assignes and to all and every such governor or governors or other officers or ministers as by our said brother his heires or assignes shall be appointed to have power and authority of government and command in or over the inhabitants of the said territoryes or islands that they and every of them shall and lawfully may from time to time and at all times hereafter forever for their severall defence and safety encounter expulse repell and resist by force of arms as well by sea as by land and all wayes and means whatsoever all such person and persons as without the speciall licence of our said deare brother his heires or assignes shall attempt to inhabit within the severall precincts and limitts of our said territoryes and islands and also all and every such person and persons whatsoever as shall enterprize or attempt at any time hereafter the destruecon or invasion detriment or annoyance to ye parts places or islands aforesaid or any parte thereof and lastly our will and pleasure is and wee do hereby declare and grant that these our letters patents or the enrollment thereof shall be good and effectuell in the law to all intents and purposes whatsoever notwithstanding the not reciting or menconing of the premises or any part thereof or the meets or bounds thereof or of any former or other presents patents or grants heretofore made or granted of the premisses or of any part thereof by us or any of our progenitors unto any other person or persons whatsoever bodyes politique or corporate or any act law or other restraint incertainty or imperfection whatsoever to the contrary in any wise notwithstanding althoughe expresse mencon of the true yearly value or certainty of the premises or any of them or of any other gifts or grants by us or by any of our progenitors or predecessors heretofore made to the said James Duke of Yorke in these presents is not made or any statute act ordinance provision proclamacon or restriction heretofore had made enacted ordained or provided or any other matter cause or thing whatsoever to the contrary thereof in any wise notwithstanding.

In witnesse whereof wee have caused these our letters to be made pattents.—

Witnesse ourselfe at Westminster the twelveth day of March in the sixteenth yeare of our raigne.

By the King:

HOWARD.

STATE OF NEW YORK,
SECRETARY'S OFFICE.

Appendix.
No. 12.

I certify the preceding to be a true copy of certain Letters Patent as of record in this office, in Book of Patents number one, page 139, &c.

Grant to the Duke of York, and comments relative to said Grant.

In testimony whereof, I have hereunto affixed the seal of this office, at
[L. s.] the city of Albany, the twenty-seventh day of March, in the year of our Lord one thousand eight hundred and twenty-eight.

A. C. FLAGG,
Secretary.

By Nathaniel Pitcher, Lieutenant Governor of the State of New York, administering the government of the said State:

It is hereby certified that Azariah C. Flagg is Secretary of this State, duly commissioned and sworn; that the signature "A. C. Flagg," to the preceding copy of the Grant from Charles the Second to the Duke of York, is the proper hand-writing of the said Secretary, and that full faith and credit may and ought to be given to his official acts.

In testimony whereof, I have caused the great seal of this State to be hereunto affixed.—Witness my hand, at the city of Albany, the twenty-seventh day of March, in the year of our Lord one thousand eight hundred and twenty-eight.

NATHANIEL PITCHER.

Passed the Secretary's Office, the 28th day of March, 1828.

ARCH'D CAMPBELL,
Dep. Secretary.

HIS MAJESTIES LETTERS PATENTS

TO HIS ROYAL HIGHNESSE RECORDED NOVEMBER FOURTH, 1674.

Charles the Second by the Grace of God King of England Scotland France and Ireland Defender of the Faith &c. To all to whom these presents shall come Greeting: Know yee that wee for divers good causes and consideracons have of our especial grace certaine knowledge and meer motion given and granted and by these presents for us our heirs and successors do give and graunt unto our dearest brother James Duke of Yorke his heires and assigns All that part of the main land of New England, *beginning at a certaine place called or known by the name of St Croix nex* adjoining to New Scotland in America and from thence extending along the seacoast unto a certaine place called Petuaguine or Pemaquid and so up the river thereof to the furthest head of the same as it windeth northward and extending from the river of Kinebeque and so upwards by the shortest course to the river Canada northwards: And und all that Island or Islands commonly called by the severall name or names of Matowacks or Long Islands scituate and being towards the west of Cape Cod and the narrow Higansetts abutting upon the main land between the two rivers there called or known by the severall names of Connecticutt and Hudson's River together also with the said river called Hudson's River and all the lands from the west side of Connecticutt river to the east side of Delaware Bay: And also all those severall Islands called or known by the names of Martin Vin Yard and Nantukes otherwise Nantuckett: Together with all the lands Islands soiles rivers harbors Mines Mineralls Quarries

Confirmation of said Grant.

Appendix.
No. 12.

Grant to the Duke of York, and Documents relative to said Grant.

Confirmation of said Grant.

woods marshes waters Lakes fishings Hawking hunting and fowling and all other royalties profits Commodities and hereditaments to the said severall Islands Lands and premises belonging and appertaining with their and every of their appurtenants: And all our Estate right title and interest benefit and advantage claime and demand of in or to the said lands or premises or any part or parcell thereof and the revercon and revercons remainder and remainders together with the yearly and other rents revenues, and profitts of the premises and of every part and parcell thereof To have and to hold all and singular the said lands and premises with their and every of their appurtenments hereby given and graunted or herein before mentioned to be given and graunted unto our said dearest brother James Duke of Yorke his heirs and assigns forever: To bee holden of us our heirs and successors as of our Manor of East Greenwich, in our county of Kent in free and common soeage and not in capite nor by Knight service yielding and rendering: And the said James Duke of Yorke for himself his heirs and assigns doth covenant and promise to yield and render unto Us our heirs and successors of and for the same yearly and every year forty Beaver Skins when they shall bee demanded or within ninety days after such demand made and wee do further, of our speciall Grace certaine knowledge and meer motion for Us Our heirs and successors give and graunt unto our said Dearest brother James Duke of Yorke his heirs Deputyes Agents Commissioners and assigns by these presents full and absolute power and authority to correct punish pardon govern and rule all such the subjects of us our heirs and successors or any other person or persons as shall from time to time adventure themselves into any of the parts or places aforesaid or that shall or do at any time hereafter inhabit within the same according to such Lawes orders ordnances directions and instruetions as by our said dearest brother or his assigns shall bee established and in defect thereof in cases of necessity according to the good direcons of his Deputyes Commissioners Officers or Agents respectively as well in all cases and matters capitall and criminall as Civill Marine and Others so alwayes as the said Statutes ordnances and proceedings bee not contrary to but as neare as may bee agreeable to the Lawes Statutes and Government of this our realm of England and saving and reserving to Us our heirs and successors the receiving hearing and determining of the appeal and appeals of all or any person or persons of in or belonging to the Territoryes or Islands aforesaid or touching any Judgment or sentence to bee there made or given And further that it shall and may bee lawfull to and for our said dearest brother his heirs and assigns by these presents from time to time to nominate make constitute ordaine and confirme such Lawes as aforesaid by such name or names stile or stiles as to him or them shall seem good And likewise to revoke discharge change and alter as well all and singular Governors officers and ministers which hereafter shall be by him or them thought fit and needfull to be made or used within the aforesaid Islands and parts: And also to make ordaine and establish all manner of lawes orders direcons instructions formes and ceremonies of Government and Magistraey fit and necessary for and concerning the Government of the Territoryes and Islands aforesaid so alwayes as the same bee not contrary to the Lawes and Statutes of this our realme of England, but as neare as may bee agreeable thereunto and the same at all times hereafter to put in execution abrogate revoke or change not onely within the precincts of the said Territoryes or Islands but also upon the seas in going and coming to and from the same as hee or they in their good discretions shall think fittest for the good of the adventurers and inhabitants And wee do further of our Especiall Grace certaine knowledge and meer motion graunt ordaine and declare that such Governors Deputyes Officers and Ministers as from time to time shall bee authorized and appointed in manner and forme aforesaid shall and may have full power and authority within the Territoryes aforesaid to use and exercise Marshall Lawe in cases of rebellion insurrection and Mutiny in as large and ample manner as our Lieutenants in our Countyes

within Our realme of England have or ought to have by force of their Commission of *Appendix.*
 Lieutenantcy or any law or Statute of this our realme: And Wee do further by these *No. 12.*
 presents for us our heirs and successors graunt unto Our said dearest brother James *Grant to the Duke of York, and Decretments relative to said Grant.*
 Duke of Yorke his heirs and assigns that it shall and may be lawfull to and for the said James Duke of Yorke his heirs and assigns in his or their discreceon from time to time to admit such and so many person and persons to trade and trafficke into and and within ye Territoryes and Islands aforesaid and into every or any of the Territoryes and Islands aforesaid and into every or any part and parcell thereof: And to have possess and enjoy any Lands and hereditaments in the parts and places aforesaid as they shall think fit according to the Lawes orders constitutions and ordinaances by our said brother his heirs deputies Commissioners and assigns from time to time to bee made and established by vertue of and according to the true intent and meaning of these presents and under such condicions reservacons and agreements as our said dearest brother his heirs and assigns shall set downe order direct and appoint and not otherwise as aforesaid And we do further of our Especiall Grace certaine knowledge and meer motion for us our heires and successors give and graunt unto our said deare brother his heirs and assigns by these presents that it shall and may be lawfull to and for him them or any of them at all and Every time and times hereafter out of any of our realms or dominions whatsoever to take lead carry and transport in and into their voyages for and towards the Plantacons of our said Territoryes and Islands aforesaid all such and so many of our loving subjects or any other strangers being not prohibited or under restraint that will become our loving subjects and live under our allegiance and shall willingly accompany them in the said voyages together with all such cloathing implements flurniture and other things usually transported and not prohibited as shall be necessary for the inhabitants of the said Islands and territoryes and for their use and defence thereof and managing and carrying on the trade with the people there and in passing and returning to and fro Yielding and paying to us our heirs and successors the customes and duties therefore due and payable according to the Lawes and Customes of this our realme And Wee do also for us our heirs and successors graunt to our said dearest brother James Duke of Yorke his heirs and assigns and to all and every such Governor or Governors Deputies their Officers or Ministers as by our said brother his heirs or assigns shall bee appointed to have power and authority of government or command in or over the inhabitants of the said Territoryes or Islands that they or every of them shall and lawfully may from time to time and at all times forever hereafter for their severall defence and safety encounter repulse and Expell and resist by force of armes (as well by sea as by land) and all wayes and means whatsoever all such person and persons as without the speciall licence of our dearest brother his heirs and assigns shall attempt to inhabit within the severall precincts and limits of our said Territoryes and Islands and also all and every such person and persons whatsoever as shall enterprize and attempt at any time hereafter the destruceon invasion detriment or annoyance to the parts places or Islands aforesaid or any part thereof And lastly our will and pleasure is and We do hereby declare and graunt that these our Letters Patents or the enrolment thereof shall bee good and Effectuall in the Law to all intents and purposes whatsoever notwithstanding the not well and true reciting or mentioning of the premises or any part thereof or the limits or bounds thereof or of any former or other Letters Patents or graunts whatsoever made or granted or of any part thereof by us or any of our progenitors unto any person or persons whatsoever bodies politick or corporate or any law or other restraint incertainty or imperfeccon whatsoever to the contrary in any wise notwithstanding although Expresse mention of the true yearly value or certainty of the premises or of any of them or of any other gifts or graunts by us or by any of our progenitors heretofore made to the said James Duke of Yorke in these presents is not made or any statute act ordinance.

Appendix.
No. 12

Grant to the Duke
of York, and De-
cuments relative
to said Grant.

Confirmation of
said Grant.

provision proclamation or restriction heretofore had made enacted or provided or any other matter cause or thing whatsoever to the contrary thereof in any wise notwithstanding. In witness whereof Wee have caused these our Letters to bee made Patents Witsesse Our Selfe at Westm. the 29th day of June in the 26th year of our reigne.
PIGOTT.

STATE OF NEW YORK, }
Secretary's Office.

I certify the preceding to be a true copy of certain Letters Patent, as of record in this office, in Book of Deeds, No. 1, page 1, &c.

In testimony whereof, I have hereunto affixed the seal of this office, at the City of Albany, the 30th day of September, 1828.

[L. S.]

ARCHD. CAMPBELL,

Dep. Secretary.

By Nathaniel Pitcher, Lieutenant Governor of the State of New York, acting as Governor of the said State:

It is hereby certified that the preceding copy is in due form, and by the proper officer.

In testimony whereof, I have hereunto affixed the Great Seal of this State. Witness my hand, at the City of Albany, the 30th day of September, 1828.

[L. S.]

NATHANIEL PITCHER.

COMMISSION TO GOVERNOR EDMUND ANDROS.

James Duke of Yorke and Albany Earl of Ulster &c.

Commission to
Edmund Andros.

Whereas it hath pleased the King's most excellent Majesty My Sovereign Lord and brother by his Letters Patents to issue and graunte unto mee my heirs and assigns all that part of the Maine Land of New England *beginning at a certaine place called or knowne by the name of St Croix next adjoining to New Scotland in America and from thence extending along the sea coast unto a certaine place called Petuaquin or Peniaquid and so up the river thereof to the furthest head of the same as it tendeth northward and extending from thence, to the river of Kinebequi and so upwards to the shortest sourse to the river Canada northwards. And also all that Island or Islands commonly called by the severall names of Mato-wacks or Long Island situate lying and being towards the West of Cape Cod and the narrow Higansetts abutting upon the maine land between the two rivers, there called or known by the severall names of Conecticut and Hudson's river together also with the said river called Hudson's river and all the land from the west side of Conecticut river to the east side of Delaware Bay And also all those severall Islands called or known by the name of Martin's Vineyards and Nantukes otherwise Nantuckett together with all the lands Islands Soiles rivers harbours Mines Minerals quarryes woods marshes waters Lakes Fishings Hawking Hunting and fflowing and all other royalties and profits commodities and hereditaments to the said severall Islands Lands and premises belonging and appertaining with their and every of their appurtenances to hold the same to my own proper use and behoofe with power to correct punish pardon governe and rule the inhabitants thereof by myselfe or such Deputyes Commissioners or Officers as I shall think fit to appoint as by his Majesties said Letters Patents may more fully appeare And whereas I have conceived a good opinion of the integrity prudence ability and fites of*

Major Edmund Andros to bee employed as my Lieutenant there I have therefore thought fit to constitute and appoint him the said Major Edmund Andros to be my Lieutenant and Governor within the Lands Islands and places aforesaid to performe and execute all and every the powers which are by the said Letters Patents graunted unto mee to bee executed by mee my Deputy agent or assignes To have and to hold the said place of Lieutenant and Governor unto him the said Edmund Andros Esq but during my will and pleasure onely hereby willing and requiring all and every the inhabitants of the said Lands, Islands and places to give obedience unto him the said Edmund Andros Esq in all things according to the tenour of his Majesty's Letters Patents and the said Edmund Andros to observe follow and execute such orders and direcons as hee shall from time to time receive from myselfe Given under my hand and Seal at Windsor this 1st day of July 1674

Appendix.
No. 12.
Grant to the Duke of York, and Documents relative to said Grant.
Commission to Edmund Andros.

JAMES.

By command of His Royall Highnesse
JO: WERDEN.

STATE OF NEW YORK,
Secretary's Office.

I certify the preceding to be a true copy of a certain Commission, as of record in this office, in Book of Deeds No. 1, page 4.

In testimony whereof, I have hereunto affixed the seal of this office, at the City [L. s.] of Albany, the 30th day of September, 1828.

ARCHD. CAMPBELL,
Dep. Secretary.

By Nathaniel Pitcher, Lieutenant Governor of the State of New York, acting as Governor of the said State:

It is hereby certified that the preceding copy is attested in due form, and by the proper officer.

In testimony whereof, I have hereunto affixed the Great Seal of this State. [L. s.] Witness my hand at the City of Albany, the 30th day of September, 1828.

NATHANIEL PITCHER.

COMMISSION TO COLONEL THOMAS DONGAN, TO BE GOVERNOR OF NEW YORK.

James Duke of York and Albany Earl of Ulster, &c.

Whereas it hath pleased the King's most Excellent Majesty my Sovereign Lord and brother by his Letters Patents to give and graunt unto mee and my heirs and assigns all that part of the maine Land of New England beginning at a Certaine place called or knowne by the name of *St Croix* next adjoining to New Scotland in America and from thence extending along the Sea Coast unto a certaine place Called *Pemaquin* or *Pemaquid* and soe up the river thereof to the furthest head of the same as it tendeth northwards and extending thence to the river of *Kinebequi* and soe upwards to the Shortest Course to the river Canada northward and also all that Island or Islands commonly called by the severall name or names of *Matowacks* or *Long Island* seituat lying and being towards the west

Commission to Thomas Dongan

Appendix, of Cape Codd and the narrow Higansetts abutting upon the maine land between the two rivers there called or knowne by the severall names of Connecticut and Hudsons River together alsoe with the said river called Hudsons river and all the lands from the west side of Connecticut river to the east side of Delaware bay and alsoe all those severall Islands called or knowne by the name of Martyn Vinyard and Nantukes Otherwise Nantuckett together with all the lands, Islands

No. 12.
Grant to the Duke of York, and Documents relative to said Grant.

Commission of Thomas Dongan.

soiles rivers harbours Mines Mineralls Quarries woods marshes waters Lakes fishings, hawking hunting and Fowling and all other Royalties and Profitts commodities & hereditaments to the said severall Islands Lands and premises belonging and appurtaning with their and every of their appurtenances: To hold the same to my own proper use and behoofe with power to correct, punish pardon governe and rule the inhabitants thereof by myselfe or such Deputyes, Commissioners or Officers as I shall think fitt to appoint as by His Majestys said Letters Patents may more fully appear, And whereas I have since for divers good causes and Considerations by severall Instruments under my hand and Seale bargained sold released and confirmed unto Sir George Carterett [late our Chamberlaine to His Majestys household] and his heirs and unto Edward Billing and others and their heyres all the tract of land [parcell of the Premises] commonly called or knowne by the names of East and West Jersey scituate on the West side of Hudson's river according to certain boundaries more particularly Expressed in the said Several instruments and under certain rents and covenants as therein relaeon being thereunto had may more fully appeare And whereas I have conceived a good opinion of the integrity prudence ability and fitnessse of Coll Thomas Dongan to be employed as my Lieutenant there, I have therefore thought fitt to constitute and appointe him the said Coll Thomas Dongan to be my Lieutenant and Governour within the lands Islands and places aforesaid [except the said East and West New Jersey] to perform and execute all and every the powers which are by the said Letters pattents granted unto me to be executed by me my deputy agent or assignes To have and to hold the said place of Lieutenant and Governour unto him the said Coll Thomas Dongan but during my will and pleasure only hereby willing and requiring all and every the inhabitants of the said Lands Islands and places, (except as before excepted) to give obedience unto him the said Coll Thomas Dongan in all things according to this tenour of his Majesties Letters Patents and the said Coll Thomas Dongan to observe follow and execute such orders and dirreccons as he shall from time to time receive from myselfe

Given under my hand and seale at St James's the thirtieth day of September 1682

JAMES

By command of His Royall Highness

JO WERDEN

STATE OF NEW YORK,

SECRETARY'S OFFICE.

I certify the preceeding to be a true copy of a certain Commission, as of record in this Office, in Book of Records of Commissions, No. 1, page 1.

In testimony whereof, I have hereunto affixed the Seal of this Office, at [L. s.] the City of Albany, the thirtieth day of September, 1828.

ARCHIBALD CAMPBELL,

Deputy Secretary.

By Nathaniel Pitcher, Lieutenant Governor of the State of New York, acting as Governor of said State:

It is hereby certified, that the preceeding copy is attested in due form, and by the proper officer.

In testimony whereof, I have hereunto affixed the Great Seal of this State.
[L. s.] Witness my hand at the City of Albany, the thirtieth day of September, 1828.

NATHANIEL PITCHER.

APPENDIX, No. XIII.

CHARTER

OF

THE PROVINCE OF MASSACHUSETTS BAY,

BY WILLIAM AND MARY, 7TH OCTOBER, 1691.

Septima pars Paten de anno RR et Rne Gulielmi et Marie tertio.

William and Mary by the grace of God &c to all to whome these presents shall come
greeting

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Whereas his late Majestie King James the First our royall predecessor by his Letters Patents under the great seale of England bearing date at Westminster the third day of November in the eighteenth yeare of his reigne did give and grant unto the Councill established at Plymouth in the County of Devon for the planting ruling ordering and governing of New England in America and to their successors and assignes all that part of America lying and being in breadth from forty degrees of northerly latitude from the equinoctiall line to the forty-eighth degree of the said northerly latitude inclusively and in length of and within all the breadth aforesaid throughout all the maine lands from sea to sea together alsoe with all the firme lands soiles groundes havens ports rivers waters fishings mines and mineralls as well royall mines of gold and silver as other mines and mineralls preeceious stones quarries and all and singular other comodities jurisdiecons royalties priviledges franchises and preheminences both within the said tract of land upon the maine and also within the iselands and seas adjoyning *Provided alwaies that the said lands iselands or any the premises by the said Letters Patents intended and meant to be granted were not then actually possessed or inhabited by any other Christian Prince or State or within the bounds limitts or territories of the southerne colony then before granted by the said late King James the First to be planted by divers of his subjects in the south parts* to have and to hold possesse and enjoy all and singular the aforesaid continent lands territories iselands hereditaments and preeincts seas waters fishings with all and all manner of their comodities royalties liberties preheminences and profits that should from thenceforth arise from thence with all and singular their appurtenances and every part and parcell thereof unto the said Councill and their successors and assignes forever to the sole and proper use and benefitt of the said Councill and their successors and assignes forever to be holden of his said late Majestie King James the First his heires and successors as of his mannor of East Greenwich in the county of Kent in free and comon soccage and not in capite nor by Knights service Yielding and paying therefore to the said late King his heires and successors the fifth part of the oar of gold and silver which should from time to time and at all times then after happen to be found gotten had and obtained in at or within any of the said lands limitts territories or preeincts or in or within any part or parcell thereof for or in respect of all and all

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manner of duties demands and services whatsoever to be done made or paid to the said late King James the First his heires and successors (as in and by the said Letters Patents amongst sundry other clauses powers priviledges and grants therein contained more at large appeareth) And whereas the said Councill established at Plymouth in the County of Devon for the planting ruleing ordering and governing of New England in America did by their deed indented under their comon seale bearing date the nineteenth day of March in the third yeare of the reigne of our Royall Grandfather King Charles the First of ever-blessed memory give grant bargain sell infeoffe alien and confirme to Sir Henry Roswell Sir John Young Knights Thomas Southcott John Humphreys John Endicott and Simond Whetcomb their heires and assignes and their associates forever all that part of New England in America aforesaid which lyes and extends between a great river there comonly called Monomack als Merrimack and a certaine other river there called Charles River being in a bottom of a certaine bay there comonly called Massachusetts als Mattachusetts als Massatusetts Bay and alsoe all and singular those lands and hereditaments whatsoever lying within the space of three English miles on the south part of the said Charles River or of any and every part thereof and alsoe all and singular the lands and hereditaments whatsoever lying and being within the space of three English miles to the southward of the southermost part of the said bay called the Massachusets als Mattachusetts als Massatusetts Bay and alsoe all those lands and hereditaments whatsoever which lye and be within the space of three English miles to the northward of the said river called Monomack als Merrimack or to the northward of any and every part thereof and all lands and hereditaments whatsoever lying within the limits aforesaid north and south in latitude and in breadth and in length and longitude of and within all the breadth aforesaid throughout the maine lands there from the Atlantick and Western Sea and Ocean on the east part to the South Sea on the west part and all lands and grounds place and places soile woods and wood grounds havens ports rivers waters fishings and hereditaments whatsoever lying within the said bounds and limitts and every part and parcell thereof and alsoe all iselands lying in America aforesaid in the said seas or either of them on the westernne or easternne coasts or parts of the said tracts of land by the said indenture menconed to be given and granted bargained sold enfeofed aliened and confirmed or any of them and alsoe all mines and mineralles as well royall mines of gold and silver as other mines and mineralles whatsoever in the said lands and premisses or any part thereof and all jurisdiecons rights royalties liberties freedoms inunities priviledges franchises preheminences and comodities whatsoever which they the said Councill established at Plymouth in the County of Devon for the planting ruleing ordering and governing of New England in America then had or might use exercise or enjoy in or within the said lands and premisses by the same indenture menconed to be given granted bargained sold enfeofed and confirmed in or within any part or parcell thereof to have and to hold the said part of New England in America which lyes and extends and is abutted as aforesaid and every part and parcell thereof and all the said iselands rivers ports havens waters fishings mines mineralles jurisdiecons franchises royalties liberties priviledges comodities hereditaments and premisses whatsoever with the appurtenances unto the said Sir Henry Roswell Sir John Young Thomas Southcott John Humphreys John Endicot and Simon Whetcombe their heires and assignes and their associates forever to the onely proper and absolute use and behoofe of the said Sir Henry Roswell Sir John Young Thomas Southcott John Humphrey John Endicot and Simond Whetcombe their heires and assignes and their associates forevermore to be holden of our said Royall Grandfather King Charles the First his heires and successors as of his mannor of East Greenwich in the County of Kent in free and comon socage and not in capite nor by knights service yielding and paying there-

fore unto our said Royall Grandfather his heires and successors the fifth part of the oar of gold and silver which should from time to time and at all times hereafter happen to be found gotten had and obtained in any of the said lands within the said limitts or in or within any part thereof for and in satisfacon of all manner of duties demands and services whatsoever to be done made or paid to our said Royall Grandfather his heires or successors (as in and by the said recited indenture may more at large appeare)

And whereas our said Royall Grandfather in and by his Letters Patents under the great seale of England bearing date at Westminster the fourth day of March in the fourth yeare of his reigne for the consideracon therein menconed did grant and confirme unto the said Sir Henry Roswell Sir John Young Thomas Southcott John Humphreys John Endicott and Simond Whetcombe and to their associates after-named viz: Sir Ralph Salstentall Knight Isaac Johnson Samuell Aldersey John Ven Mathew Craddock George Harwood Increase Nowell Richard Perry Richard Bellingham Nathaniell Wright Samuell Vassall Theophilus Eaton Thomas Golfe Thomas Adams John Browne Samuell Browne Thomas Hutchins William Vassall William Pincheon and George Foxcroft their heires and assignes all the said part of New England in America lying and extending between the bounds and limitts in the said indenture expressed and all lands and grounds place and places soyles woods and wood grounds havens ports rivers waters mines mineralls jurisdictiones rights royalties liberties freedoms imunities priviledges franchises prehemincences and hereditaments whatsoever bargained sould enfeofed and confirmed or menconed or intended to be given granted bargained sold enfeofed aliened and confirmed to them the said Sir Henry Roswell Sir John Young Thomas Southcott John Humphrey John Endicott and Simond Whetcombe their heires and assignes and to their associates forever by the said recited indenture to have and to hold the said part of New England in America and other the premisses thereby menconed to be granted and confirmed and every part and parcell thereof with the appurtenances to the said Sir Henry Roswell Sir John Young Sir Richard Salstentall Thomas Southcott John Humphrey John Endicott Simond Whetcomb Isaac Johnson Samuell Aldersey John Ven Mathew Craddock George Harwood Increase Nowell Richard Perry Richard Bellingham Nathaniell Wright Samuell Vassall Theophilus Eaton Thomas Golfe Thomas Adams John Brown Samuell Brown Thomas Hutchins William Vassall William Pincheon and George Foxcroft their heires and assignes forever to their onely proper and absolute use and behoofe forevermore to be holden of our said Royall Grandfather his heires and successors as of his mannor of East Greenwich aforesaid in free and comon soccage and not in capite nor by knights service and alsoe yielding and paying therefore to our said Royall Grandfather his heires and successors the fifth part onely of all the oar of gold and silver which from time to time and at all times after should be there gotten had or obtained for all services exactions and demands whatsoever according to the tenour and reservation in the said indenture expressed And further our said Royall Grandfather by the said Letters Patents did give and grant unto the said Sir Henry Roswell Sir John Young Sir Richard Salstentall Thomas Southcott John Humphrey John Endicott Symond Whetcomb Isaac Johnson Samuell Aldersey John Ven Mathew Craddocke George Harwood Encrease Nowell Richard Perry Richard Bellingham Nathaniel Wright Samuell Vassall Theophilus Eaton Thomas Golfe Thomas Adams John Brown Samuell Brown Thomas Hutchins William Vassall William Pincheon and George Foxcroft their heires and assignes all that part of New England in America which lyes and extends between a great River there comonly called Monomack als Merrimack River and a certaine other River there called Charles River being in the bottome of a certaine Bay there comonly called Massachusetts als Mattachusetts als Massatusetts

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Charles River or of any or every part thereof and alsoe all and singular the lands and hereditaments whatsoever lying and being within the space of three English miles to the southward of the southernmost part of the said Bay called Massachusetts als Mattachusetts als Massatusetts Bay and alsoe all those lands and hereditaments whatsoever which lye and be within the space of three English miles to the northward of the said River called Monomuck als Merrimack or to the northward of any and every part thereof and all lands and hereditaments whatsoever lying within the limitts aforesaid north and south in latitude and in breadth and in length and longitude of and within all the breadth aforesaid throughout the maine lands there from the Atlantick or Western Sea and Ocean on the east part to the South Sea on the west part and all lands and grounds place places soiles woods and wood lands havens ports rivers waters and hereditaments and whatsoever lying within the said bounds and limitts and every part and parcell thereof and alsoe all iselands in America aforesaid in the said seas or either of them on the Western or Easterne Coasts or parts of the said traets of lands thereby mentioned to be given and granted or any of them and all mines and mineralls as well royall mines of gold and silver as other mines and mineralls whatsoever in the said lands and premisses or any part thereof and free libertie of fishing in or within any of the Rivers or waters within the bounds and limitts aforesaid and the seas thereunto adjoining and all fishes royall fishes whales balene sturgeon and other fishes of what kind or nature soever that should at any time thereafter be taken in or within the said seas or waters or any of them by the said Sir Henry Roswell Sir John Young Sir Richard Saltenstale Thomas Southcott John Humphrey John Endicott Symond Wheteomb Isaac Johnson Samuell Aldersey John Ven Mathew Craddock George Harwood Increase Nowell Richard Perry Richard Bellingham Nathaniell Wright Samuell Vassall Theophilus Eaton Thomas Golfe Thomas Adams John Browne Samuell Browne Thomas Hutchins William Vassall William Pinecheon and George Foxcroft their heires or assignes or by any other person or persons whatsoever there inhabiting by them or any of them to be appointed to fish therein Provided alwaies that if the said Lands Iselands or any the Premises before mentioned and by the said Letters Patents last mencióned intended and meant to be granted were at the time of the granting the said former Letters Patents dated the third day of November in the eighteenth yeare of the reigne of His late Majestie King James the first actually possessed or inhabited by any other Christian Prince or State or were within the Bounds Limitts or Territories of the said Southernne Collony then before granted by the said King to be planted by divers of his loving subjects in the south parts of America that then the said Grant of our said Royall Grandfather should not extend to any such parts or parcells thereof soe formerly inhabited or lying within the bounds of the Southernne Plantacon as aforesaid but as to those Parts or Parcells soe possessed or inhabited by any such Christian Prince or State or being within the Boundaries aforesaid should be utterly void To have holde possesse and enjoy the said Parts of New England in America which lye extend and are abutted as aforesaid and every part and parcell thereof And all the Iselands Rivers Ports Havens Waters Fishings Fishes Mines Minerals Jurisdiceons Franchises Royalties Liberties Priviledges Commodities and Premises whatsoever with the appurtenances unto the said Sir Henry Roswell Sir John Young Sir Richard Saltenstall Thomas Southcott John Humphrey John Endicott Symond Wheteomb Isaac Johnson Samuel Aldersey John Ven Mathew Craddock George Harwood Increase Nowell Richard Perry Richard Bellingham Nathaniel Wright Samuel Vassall Theophilus Eaton Thomas Golfe Thomas Adams John Brown Samuell Brown Thomas Hutchins William Vassall William Pinecheon and

George Foxcroft their heires and assignes forever To the onely proper and absolute use and behoofe of the said Sir Henry Roswell Sir John Young Sir Richard Saltentall Thomas Southcott John Humphreys John Endicott Symond Whetcomb Isaac Johnson Samuel Aldersey John Ven Mathew Craddock George Harwood Increase Nowell Richard Perry Richard Bellingham Nathaniell Wright Samuell Vassall Theophilus Eaton Thomas Golfe Thomas Adams John Browne Samuell Browne Thomas Hutchins William Vassall William Pincheon and George Foxcroft their heires and assignes forevermore To be holden of our said Royall Grandfather his heires and successors as of his Mannor of East Greenwich in the county of Kent within the Realme of England in free and comon Socceage and not in Capite nor by Knights service And alsoe Yeilding and Paying therefore to our said Royall Grandfather his heires and successors the fifth part onely of all the Oar of Gold and Silver which from time to time and at all thereafter should be gotten had or obtained for all services exaceons and demands whatsoever Provided alwaies and his Majesties expresse Will and meaning was that onely that one fifth part of all the Gold and Silver Oar above menconed in the whole and noe more should be answered reserved or payable unto our said Royall Grandfather his heires and successors by collour or virtue of the said last menconed Letters Patents The double Reservations or Recitalls aforesaid or any thing therein conteyned notwithstanding And to the end that the affaires and businesse which from time to time should happen and arise concerning the said Lands and Plantacons of the same might be the better mannaged and ordered and for the good government thereof our said Royall Grandfather King Charles the First did by his said Letters Patents create and make the said Sir Henry Roswell Sir John Young Sir Richard Saltentall Thomas Southcott John Humphreys John Endicott Symond Whetcomb Isaac Johnson Samuell Aldersey John Ven Mathew Craddock George Harwood Increase Nowell Richard Perry Richard Bellingham Nathaniell Wright Samuel Vassall and Theophilus Eaton Thomas Golfe Thomas Adams John Brown Samuell Browne Thomas Hutchins William Vassall William Pincheon and George Foxcroft and all such others as should thereafter be admitted and made free of the Company and Societie thereafter menconed one Body Corporate and Politique in fact and name by the name of the Governor and Company of the Massachusetts Bay in New England and did grant unto them and their successors divers powers liberties and priviledges as in and by the said Letters Patents may more fully and at large appeare And Whereas the said Governor and Company of the Massachusetts Bay in New England by vertue of the said Letters Patents did seate a Collony of the English in the said Parts of America and divers good subjects of this Kingdome encouraged and invited by the said Letters Patents did transport themselves and their effects into the same whereby the said Plantacon did become very populous and divers Counties Townes and Places were created erected named settforth or designed within the said Parts of America by the said Governor and Company for the time being *And Whereas in the Terme of the Holy Trinity in the thirty-sixth yeare of the reigne of our dearest Uncle King Charles the Second a judgement was given in our Court of Chancery then sitting at Westminster upon a Writt of Scire Facias brought and prosecuted in the said Court against the Governor and Company of the Massachusetts Bay in New England and that the said Letters Patents of our said Royall Grandfather King Charles the First bearing date at Westminster the fourth day of March in the fourth yeare of his reigne made and granted to the said Governor and Company of the Massachusetts Bay in New England and the enrollment of the same should be cancelled vacated and annihilated and should be brought into the said Court to be cancelled (as in and by the said judgement remaining upon Record in the said Court doth more att large appeare)* And whereas severall persons employed as Agents in behalfe of our said Collony of the Massachusetts Bay in New England have made their humble application unto us that we

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would be graciously pleased by our Royall Charter to incorporate our subjects in our said Collony and to grant and conforme unto them such powers priviledges and franchises as in our Royall Wisdome should be thought most conducing to our Interest and service and to the welfare and happy state of our subjects in New England And wee being graciously pleased to gratifie our subjects and alsoe to the end our good subjects within our Colony of New Plymouth in New England aforesaid may be brought under such a forme of government as may put them in a better condicon of defence and considering the granting as well unto them as unto our subjects in the said Colony of the Massachusetts Bay our Royall Charter with reasonable powers and priviledges will much tend not onely to the safety but to the flourishing estate of our subjects in the said parts of New England and alsoe to the advancing of the ends for which the said Plantacons were at first encouraged Of our espetiall grace certaine knowledge and meere mocon Have willed and ordained *And Wee Doe by these Presents for us our heires and successors will and ordaine that the Territories and Colonyes comonly called or knowne by the names of The Colony of the Massachusetts Bay and Colony of New Plymouth the Province of Main The Territory called Accadia or Nova Scotia and all that Tract of Land lying between the said Territories of Nova Scotia and the said Province of Main be united erected and incorporated And Wee Doe by these Presents unite erect and incorporate the same into one reall Province by the name of Our Province of the Massachusetts Bay in New England and of our espetiall grace certaine knowledge and meere mocon We have given and granted and by these Presents for us our heires and successors Doe give and grant unto our said subjects the Inhabitants of our said Province or Territory of the Massachusetts Bay and their successors all that part of New England in America lying and extending from the Great River comonly called Monomack als Merrimack on the north part and from three miles northward of the said River to the Atlantick or Western Sea or Ocean on the south part and all the Lands and Hereditaments whatsoever lying within the limitts aforesaid and extending as farr as the uttermost Points or Promontories of Land called Cape Cod and Cape Malabar North and South and in latitude breadth and in length and longitude of and within all the breadth and compasse aforesaid throughout the Main Land there from the said Atlantick or Western Sea or Ocean on the east part towards the South Sea or westward as farr as our Colonies of Rhode Island Connecticut and the Narrowgunsett Country and alsoe all that part and porcon of Main Land beginning at the entrance of Piscataway Harbour and soe to passe up the same into the River of Norwickewunooke and through the same into the furthest head thereof and from thence northwestward till one hundred and twenty miles be finished and from Piscataway Harbour mouth aforesaid north eastward along the Sea Coast to Sagadahock and from the period of one hundred and twenty miles aforesaid to crosse over Land to the one hundred and twenty miles before reckoned up into the Land from Piscataway Harbour through Norwickewunooke River and alsoe the north halfe of the Isles of Shoales together with the Isles of Chappawock and Nantuckett near Cape Cod aforesaid and alsoe the Lands and Hereditaments lying and being in the Country or Territory comonly called Accadia or Nova Scotia and all those Lands and Hereditaments lying and extending betweene the said Country or Territory of Nova Scotia and the said River of Sagadahock or any part thereof and all Lands Grounds Places Soyls Woods and Woodgrounds Havens Ports Rivers Waters and other Hereditaments and Premises whatsoever lying within the said Bounds and Limitts aforesaid and every part and parcell thereof And alsoe All Iselands and Isellets lying within tenne leagues directly opposite to the Maine Land within the said Bounds and All Mines and Mineralls as well Royall Mines of Gold and Silver as other Mines and Mineralls whatsoever in the said Lands and Premises or any part thereof To have and to hold the*

said Territories Tracts Countries Lands Hereditaments and all and singular other the Premises with their and every of their appurtenances to our said subjects the Inhabitants of our said Province of the Massachusetts Bay in New England and their successors To their only proper use and Behoofe for evermore To be holden of us our heires and successors as of our Mannor of East Greenwich in the County of Kent by Fealty onely in Free and comon Socceage Yielding and Paying therefore yearly to us our heirs and successors the fifth part of all Gold and Silver Oar and Pretious Stones which shall from time to time and at all times hereafter happen to be found gotten had and obtained in any of the said Lands and Premises or within any part thereof Provided neverthesse And Wee Doe for us our heires and successors grant and ordaine that all and every such Lands Tenements and Hereditaments and other Estates which any person or persons or bodies politique or corporate Townes Villages Colledges or Schooles doe hold and enjoy or ought to have hold and enjoy within the bounds aforesaid by or under any Grant or Estate duely made or granted by any Generall Court formerly held or by vertue of the Letters Patents herein before recited or by any other lawfull right or tittle whatsoever shall be by such person and persons Bodies politique and Corporate Townes Villages Colledges or Schooles their respective heires successors and assignes for ever hereafter held and enjoyed according to the purport and intent of such respective Grant under and subject neverthesse to the Rents and Services thereby reserved or made payable any matter or thing whatsoever to the contrary notwithstanding And Provided alsoe that nothing herein contained shall extend or be understood or taken to impeach or prejudice any right tittle interest or demand which Samuell Allen of London Merchant claimeing from and under John Mason Esquire deceased or any other person or persons hath or have or claimeith or claime to have hold or enjoy of in to or out of any part or parts of the Premises seitu-ate within the limits above meneoned But that the said Samuell Allen and all and every such person and persons may and shall have hold and enjoy the same in such maner (and noe other than) as if these Presents had not been had or made It being our further will and pleasure that noe Grants or Conveyances of any Lands Tenements or Hereditaments to any Townes Colledges Scholes of Learning or to any private person or persons shall be judged or taken to be avoided or prejudiced for or by reason of any want or defect of forme but that the same stand and remaine of force and be maintained adjudged and have effect in such manner as the same should or ought before the time of the said recited Judgement according to the Laws and Rules then and there usually practised and allowed And Wee Doe further for us our heires and successors will establishe and ordaine that from henceforth for ever there shall be One Governor One Lieutenant or Deputy Governor and one Secretary of our said Province or Territory to be from time to time appointed and comissionated by us our heires and successors and eight and twenty Assistants or Councillors to be adviseing and assisting to the Governor of our said Province or Territory for the time being as by these Presents is hereafter directed and appointed which said Councillors or Assistants are to be constituted elected and chosen in such forme and manner as hereafter in these Presents is expressed And for the better execucon of our Royall Pleasure and Grant in this behalfe Wee Doe by these Presents for us our heires and successors nominate ordaine make and constitute our trusty and welbeloved Simon Broadstreet John Richards Nathaniell Siltenstall Wait Winthrop John Phillips James Russell Samuell Sewall Samuell Apleton Bartholomew Gedney John Hawthorne Elisha Hutchins Robert Pike Jonathan Curwin John Jolliffe Adam Winthrop Richard Middlecot John Foster Peter Serjeant Joseph Lynd Samuel Heyman Stephen Mason Thomas Hinkeley William Bradford John Walley Barnabas Lothrop Job Aleott Samuelli Daniell and Silvanus Davies Esquiers the first and present Councillors or Assistants of our said Province to continue in their said respective Offices or Trusts of Councillors or Assistants untill the last Wednesday in May which shall be in the

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year of our Lord one thousand six hundred ninety-three and untill other Councillors or Assistants shall be chosen and appointed in such manner as in these Presents is expressed And Wee Doe farther by these Presents constitute and appoint our trusty and welbeloved Isaac Addington Esquire to be our first and present Secretary of our said Province during our pleasure and our Will and pleasure is that the Governor of our said Province for the time being shall have authority from time to time at his discrecon to assemble and call together the Councillors or Assistants of our said Province for the time being and that the said Governor with the said Assistants or Councillors or seaven of them at the least shall and may from time to time hold and keepe a Councill for the ordering and directing the affaires of our said Province And further Wee Will and by these Presents for us our heires and successors Doe ordaine and grant that there shall and may be convened held and kept by the Governor for the time being upon every last Wednesday in the month of May every yeare for ever and at all such other times as the Governor of our said Province shall think fitt and appoint a great and generall Court or Assembly shall consist of the Governor and Councill or Assistants for the time being and of such freeholders of our said Province or Territory as shall be from time to time elected or deputed by the major part of the Freeholders and other Inhabitants of the respective Townes or Places who shall be present at such eleeccons each of the said Townes and Places being hereby empowered to elect and depute two persons and noe more to serve for and represent them respectively in the said Great and Generall Court or Assembly To which Great and Generall Court or Assembly to be held as aforesaid Wee Doe hereby for us our heires and successors give and grant full power and authority from time to time to direct appoint and declare what number each County Towne and Place shall elect and depute to serve for and represent them respectively in the said Great and Generall Court or Assembly Provided alwaies that noe Freeholder or other person shall have a vote in the eleeccon of Members to serve in any Great and Generall Court or Assembly to be held as aforesaid who at the time of such election shall not have an Estate of Freehold in Land within our said Province or Territory of the value of fourty shillings per ann at the least or other Estate to the value of fifty pounds sterling and that every person who shall be soe elected shall before he sitt or act in the said Great and Generall Court or Assembly take the Oathes menconed in an Act of Parliament made in the first yeare of our reigne entituled an Act for the abrogateing of the Oathes of Allegiance and Supremacy and appointing other Oathes thereby appointed to be taken instead of the Oathes of Allegiance and Supremacy and shall make repeate and subscribe the Declaracon menconed in the said Act before the Governor or Lieutenant or Deputy Governor or any two of the Assistants for the time being who shall be thereunto authorized and appointed by our said Governor and that the Governor for the time being shall have full power and authority from time to time as he shall judge necessary to adjourne proroge and dissolve all Great and Generall Courts or Assemblies mett and convened as aforesaid And our Will and Pleasure is and Wee Doe hereby for us our heires and successors grant establish and ordain that yearly once in every year for ever hereafter the aforesaid number of eight and twenty Councillors or Assistants shall be by the Generall Court or Assembly newly chosen that is to say eighteen at least of the Inhabitants or Proprietors of Lands within the Territorie formerly called The Colony of the Massachusetts Bay and foure at the least of the Inhabitants or Proprietors of Lands within the Territory formerly called New Plymouth and three at the least of the Inhabitants of or Proprietors of Lands within the Territory formerly called the Province of Main and one at the least of the Inhabitants of or Proprietors of Lands within the Territory lying between the River of Sagadahoc and Nova Scotia and that the said Councillors or Assistants or any of them shall or may at any time hereafter be removed and displaceed from their respective places or trust of Councillors or Assistants by any greater General Court or Assembly, and

that if any of the said Councillors or Assistants shall happen to dye or be removed as aforesaid before the generall day of election that then and in every such case the Great and Generall Court or Assembly at their first sitting may proceed to a new Election of one or more Councillors or Assistants in the roome or place of such Councillors or Assistants soe dying or removed And Wee Doe further grant and ordaine that it shall and may be lawfull for the said Governor which the advice and consent of the Councill or Assistants from time to time to nominate and appoint Judges Commissioners of Oyer and Terminer Sheriffs Provosts Marshalls Justices of the Peace and other officers to our Councill and Courts of Justice belonging Provided alwaies that noe such nominacon or appointment of officers be made without notice first given or summons issued out seven dayes before such nominacon or appointment unto such of the said Councillors or Assistants as shall be at that time residing within our said Province And our Will and Pleasure is that the Governor and Lieutenant or Deputy Governor and Councillors or Assistants for the time being and all other officers to be appointed or chosen as aforesaid shall before the undertaking the execution of their Offices and Places respectively take their severall and respective Oathes for the due and faithfull performance of their duties in their severall and respective Offices and Places as alsoe the Oathes appointed by the said Act of Parliament made in the first yeare of our reigne to be taken instead of the Oathes of Allegiance and Supremacy and shall make repeate and subscribe the Declaracon menconed in the said Act before such person or persons as are by these Presents hereinafter appointed (that is to say) The Governor of our said Province or Territory for the time being shall take the said Oathes and make repeate and subscribe the said Declaracon before the Lieutenant or Deputy Governor or in his absence before any two or more of the said Persons hereby nominated and appointed the present Councillors or Assistants of our said Province or Territory to whome Wee Doe by these Presents give full power and authority to give and administer the same to our said Governor accordingly And after our said Governor shall be sworne and shall have subscribed the said Declaracon that then our Lieutenant or Deputy Governor for the time being and the Councillors or Assistants before by these Presents nominated and appointed shall take the said Oathes and make repeate and subscribe the said Declaracon before our said Governor and that every such person or persons as shall (at any time of the annual Elections or otherwise upon death or removal) be appointed to be the new Councillors or Assistants and all other officers to be hereafter chosen from time to time shall take the oathes to their respective Offices and Places belonging and alsoe the said oathes appointed by the said Act of Parliament to be taken instead of the Oathes of Allegiance and Supremacy and shall make repeate and subscribe the declaracon menconed in the said Act before the Governor or Lieutenant Governor or any two or more Councillors or Assistants or such other person or persons as shall be appointed thereunto by the Governor for the time being to whome Wee Doe therefore by these Presents give full power and authority from time to time to give and administer the same respectively according to our true meaning herein before declared without any omission or further warrant to be had and obtained from us our heires and successors in that behalfe And our Will and Pleasure is and Wee Doe hereby require and comand that all and every person and persons hereafter by us our heires and successors nominated and appointed to the respective offices of Governor or Lieutenant or Deputy Governor and Secretary of our said Province or Territory (which said Governor or Lieutenant or Deputy Governor and Secretary of our said Province or Territory for the time being wee doe hereby reserve full power and authority to us our heires and successors to nominate and appoint accordingly) shall before he or they be admitted to the execution of their respective offices take as well the oath for the due and faithfull performance of the said Offices respectively as alsoe the oathes appointed by the said Act of Parliament made in the said first yeare of our reigne to be taken instead of the

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said Oathes of Allegiance and Supremacy and shall also make repeate and subscribe the Declaracon appointed by the said Act in such manner and before such persons as aforesaid And further our will and pleasure is and Wee Doe hereby for us our heires and successors grant establish and ordaine that all and everie of the subjects of us our heires and successors which shall go to and inhabit within our said Province and Territory and every of their children which shall happen to be borne there or on the seas in going thither or returneing from thence shall have and enjoy all Liberties and Immunities of free and naturall subjects within any of the Dominions of us our heires and successors to all intents construccions and purposes whatsoever as if they and every of them were borne within this our Realme of England and for the greater ease and encouragement of our loving subjects inhabiting our said Province or Territory of the Massachusetts Bay and of such as shall come to inhabite there Wee Doe by these Presents for us our heires and successors grant establish and ordaine that forever hereafter there shall be a liberty of conscience allowed in the worship of God to all Christians (except Papists) inhabiting or which shall inhabit or be resident within our said Province or Territory And Wee Doe hereby grant and ordaine that the Governor or Lieutenant or Deputy Governor of our said Province or Territory for the time being or either of them or any two or more of the Council or Assistants for the time being as shall be thereunto appointed by the said Governour shall and may at all times and from time to time hereafter have full power and authority to administer and give the Oathes appointed by the said Act of Parliament made in the first year of our reigne to be taken instead of the Oathes of Allegiance and Supremacy to all and every person and persons which are now inhabiting or residing within our said Province or Territory or which shall at any time or times hereafter goe or passe thither And Wee Doe of our further grace certaine knowledge and meere mocon Grant establish and ordaine for us our heires and successors that the Great and Generall Court or Assembly of our said Province or Territory for the time being convened as aforesaid shall for ever have full power and authority to crect and constitute Judicatories and Courts of Record or other Courts to be held in the name of us our heires and successors for the hearing trying and determining of all and all manner of crimes offences Pleas Processes Plaints Accons Matters Causes and things whatsoever arising or happening within our said Province or Territory or between persons inhabiting or residing there whether the same be Criminall or Civill and whether the said Crimes be Capitall or not Capitall and whether the said Pleas be reall personall or mixt and for the awarding and making out of execucon thereupon To which Courts and Judicatories Wee Doe hereby for us our heires and successors give and grant full power and authority from time to time to administer Oathes for the better discovery of truth in any matter in controversy or depending before them And Wee Doe for us our heires and successors grant establish and ordaine that the Governour of our said Province or Territory for the time being with the Councell or Assistants may doe execute or performe all that is necessary for the Probate of Wills and granting of administracions for touching or concerning any Interest or Estate which any person or persons shall have within our said Province or Territory And Whereas Wee judge it necessary that all our subjects should have liberty to appeale to us our heires and successors in cases that may deserve the same Wee Doe by these Presents ordaine that in case either Party shall not rest satisfied with the Judgement or Sentence of any Judicatories or Courts within our said Province or Territory in any personall Accon wherein the matter in difference doth exceed the value of three hundred pounds sterling that then hee or they may appeale to us our heires and successors in our or their Privy Councill provided that such appeale be made within fourteen days after the Sentence or Judgement given And that before such appeale be allowed security be given by the party or parties appealing in the value of the matter in difference to pay or answer the debt or damages for the which Judgment or Sentence is given with such costs

and damages as shall be awarded by us our heires or successors in case the Judgement or Sentence be affirmed And Provided alsoe that noe execucon shall be staid or suspended by reason of such appeale unto us our heires and successors in our or their Privy Councill soe as the party sueing or taking out execucon doe in the like manner give security to the vallue of the matter in difference to make restitucon in case the said judgement or sentence be reversed or annulled upon said appeale And wee doe further for us our heires and successors give and grant to the said Governour and the Great and General Court or Assembly of our said Province or Territory for the time being full power and authority from time to time to make ordaine and establish all manner of wholesome and reasonable Orders Laws Statutes and Ordinances Dirececons and Instrucecons either with penalties or without (soe as the same be not repugnant or contrary to the Lawes of this our Realme of England as they shall judge to be for the good and welfare of our said Province or Territory and for the Government and ordering thereof and of the people inhabiting or who shall inhabit the same and for the necessary support and defence of the Government thereof And wee doe for us our heires and successors give and grant that the said Generall Court or Assembly shall have full power and authority to name and settle annually all Civill Officers within the said Province such Officers excepted the election and constitucon of whome wee have by these presents reserved to us our heires and successors or to the Governor of our said province for the time being and to sett forth the severall duties powers and limits of every such Officer to be appointed by the said Generall Court or Assembly and the formes of such oathes not repugnant to the Lawes and Statutes of this our Realme of England as shall be respectively administred unto them for the execution of their severall Offices and Places and also to impose Fines Mulets Imprisonments and other Punishments and to impose and levy proportionable and reasonable Assessments Rates and Taxes upon the Estates and Persons of all and every the Proprietors or Inhabitants of our said Province or Territory to be issued and disposed of by warrant under the hand of the Governor of our said Province for the time being with the advice and consent of the Councill for our service in the necessary defence and support of our Government of our said Province or Territory and the protection and the preservacon of the Inhabitants there according to such Acts as are or shall be in force within our said Province and to dispose of matters and things whereby our subjects Inhabitants of our said Province may be religiously peaceably and civilly governed protected and defended soe as their good life and orderly conversation may win the Indians Natives of the Country to the knowledge and obedience of the onely true God and Saviour of mankind and the Christian faith which his late Majesty our Royall Grandfather King Charles the First in his said Letters Patents declared was his Royall intentions And the adventurers free profession to be the principall end of the said Plantacon and for the better secureing and maintaining liberty of Conscience hereby granted to all persons at any time being and residing within our said Province or Territory as aforesaid willing commanding and requiring and by these presents for us our heires and successors ordaining and appointing that all such Orders Laws Statutes and Ordinances Instrucecons and Dirececons as shall be soe made and published under our Seale of our said Province or Territory shall be carefully and duely observed kept and performed and put in execution according to the true intent and meaning of these presents Provided alwaies And wee doe by these presents for us our heires and successors establish and ordaine that in the frameing and passing of all such Orders Laws Statutes and Ordinances and in all Elections and Acts of Government whatsoever to be passed made or done by the said Generall Court or Assembly or Councill the Governor of our said Province or Territory of the Massachusetts Bay in New England for the time being shall have the negative voice and that without his consent or approbacon signified and declared in writeing noe such Orders Laws Statutes Ordinances Elections or other

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acts of Government whatsoever soe to bee made passed or done by the said Generall Assembly or in Councill shall be of any force effect or validity any thing herein conteyned to the contrary in any wise notwithstanding And wee doe for us our heires and successors establish and ordaine that the said Orders Lawes Statutes and Ordinances be by the first opportunity after the making thereof sent or transmitted unto us our heires and successors under the Publick Seale to be appointed by us for our or their approbacon or disallowance and that in case all or any of them shall at any time within the space of three years next after the same shall have been presented to us our heires and successors in our or their Privy Councill be disallowed and rejected and soe signified by us our heires and successors under our or their signe manuell and signett or by order in our or their Privy Councill unto the Governor for the time being then such and soe many of them as shall be soe disallowed and rejected shall thenceforth cease and determine and become utterly void and of none effect Provided alwaies that in case wee our heires or successors shall not within the terme of three yeares after the presenting of such Orders Lawes Statutes or Ordinances as aforesaid signifie our or their disallowance of the same then the said Orders Lawes Statutes or Ordinances shall be and continue in full force and effect according to the true intent and meaning of the same untill the expiracon thereof or that the same shall bee repealed by the Generall Assembly of our said Province for the time being *Provided alsoe that it shall and may be lawfull for the said Governor and Generall Assembly to make or passe any Grant of Lands lying within the bounds of the Colonies formerly called the Collonies of the Massachusetts Bay and New Plymouth and Province of Maine in such manner as heretofore they might have done by vertue of any former Charter or Letters Patents which Grants of Lands within the bounds aforesaid Wee Doe hereby will and ordeine to be and continue forever of full force and effect without our farther approbacon or consent and soe as neverthelesse and it is our Royall will and pleasure that noe Grant or Grants of any Lands lying or extending from the River of Sagadahock to the Gulph of St. Laurence and Canada Rivers and to the Main Sea northward and eastward to be made or past by the Governor and Generall Assembly of our said Province be of any force validity or effect untill wee our heires and successors shall have signified our or their approbacon of the same* And Wee Doe by these presents for us our heires and successors grant establish and ordaine that the Governor of our said Province or Territory for the time being shall have full power by himself or by any Chiefe Comander or other Officer or Officers to be appointed by him from time to time to frame instruct exercise and governe the Militia there and for the spetiall defence and safety of our said Province or Territory to assemble in martiall array and put in warlike posture the Inhabitants of our said Province or Territory and to lead and conduct them and with them to encounter expulse repell resist and pursue by force of armes as well by sea as by land within or without the limitts of our said Province or Territory and alsoe to kill slay destroy and conquer by all fitting wayes enterprises and means whatsoever all and every such person and persons as shall at any time hereafter attempt or enterprise the destruccon invasion detriment or annoyance of our said Province or Territory and to use and exercise the Law Martiall in time of actuall Warr Invasion or Rebellion as occasion shall necessarily require and alsoe from time to time to erect Forts and to fortifie any place or places within our said Province or Territory and the same to furnish with all necessary amunicon Provisions and Stores of Warr for offence or defence and to comitt from time to time the custody and government of the same to such person or persons as to him shall seeme meet and the said Forts and Fortificacons to demolish at his pleasure and to take and surprise by all waies and means whatsoever all and every such person or persons with their Shippes Armes Amunition and other Goods as shall in a hostile manner invade or attempt the invadeing conquering or annoying of our said

Province or Territory Provided alwaies And Wee Doe by these Presents for us our heires and successors grant establish and ordaine that the said Governour shall not at any time hereafter by vertue of any power hereby granted or hereafter to be granted to him transport any of the Inhabitants of our said Province or Territorie or oblige them to march out of the limitts of the same without their free and voluntary consent or the consent of the Great and Generall Court or Assembly of our said Province or Territory nor grant Comissions for exercising the Law Martiall upon any the Inhabitants of our said Province or Territory without the advice and consent of the Council or Assistants of the same Provided in like manner and Wee Doe by these Presents for us our heires and successors constitute and ordaine that when and as often as the Governor of our said Province for the time being shall happen to die or be displaced by us our heires or successors or be absent from his Government that then and in any of the cases the Lieutenant or Deputy Governor of our said Province for the time being shall have full power and authority to doe and execute all and every such acts matters and things which our Governor of our said Province for the time being might or could by vertue of these our Letters Patents lawfully doe or execute if he were personally present untill the returne of the Governor soe absent or arrivall or constitution of such other Governor as shall or may be appointed by us our heires or successors in his stead and that when and as often as the Governour and Lieutenant or Deputy Governor of our said Province or Territory for the time being shall happen to die or be displaced by us our heires or successors or be absent from our said Province and that there shall be noe person within the said Province commissioned by us our heires or successors to be Governour within the same then and in every of the said cases the Council or Assistants of our said Province shall have full power and authority and Wee Doe hereby give and grant unto the said Council or Assistants of our said Province for the time being or the major part of them full power and authority to doe and execute all and every such acts matters and things which the said Governour or Lieutenant or Deputy Governor of our said Province or Territory for the time being might or could lawfully doe or exercise if they or either of them were personally present untill the returne of the Governour or Lieutenant or Deputy Governour soe absent or arrivall or constitution of such other Governor or Lieutenant or Deputy Governour as shall or may be appointed by us our heires or successors from time to time Provided alwaies and it is hereby declared that nothing herein conteyned shall extend or be taken to erect or grant or allow the exercise of any Admirall Court Jurisdiction Power or authority but that the same shall be and is hereby reserved to us and our successors and shall from time to time be erected granted and exercised by vertue of commissions to be issued under the Great Seale of England or under the Seale of the High Admirall or the Commissioners for executing the Office of High Admirall of England And further our expresse will and pleasure is And Wee Doe by these Presents for us our heires and successors ordaine and appoint that these our Letters Patents shall not in any manner enure or be taken to abridge bar or hinder any of our loving subjects whatsoever to use and exercise the trade of fishing upon the Coasts of New England but that they and every of them shall have full and free power and libertie to continue and use the said Trade of Fishing upon the said Coasts in any of the Seas thereunto adjoining or any armes of the said Seas or Salt Water Rivers where they have been wont to fish and to build and sett upon the lands within our said Province or Colony lying wast and not then possess by particular Proprietors such Wharves Stages and Workhouses as shall be necessary for the salting drying keeping and packing of their Fish to be taken or gotten upon that Coast and to cutt downe and take such Trees and other materialls there growing or being upon any parts or places lying wast and not then in possession of particuler Proprietors as shall be needfull for that purpose and for all other necessary easements help and advantages concerning the said Trade of Fishing there in such manner and forme as they have been heretofore at

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Appendix. any time accustomed to doe without makeing any wilfull waste or spoile any thing in these presents conteyned to the contrary notwithstanding And lastly for the better

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provideing and furnishing of Masts for our Royall Navy Wee Doe hereby reserve to us our heires and successors all trees of the diameter of twenty four inches and upwards of twelve inches from the ground growing upon any soyle or traet of Land within our said Province or Territory not heretofore granted to any private persons And Wee Doe restraine and forbid all persons whatsoever from felling cutting or destroying any such trees without the Royall Lycence of us our heires and successors first had and obtained upon penalty of forfeiting one hundred pounds sterling unto us our heires and successors for every such tree so felled cutt or destroyed without such lycence had or obtained in that behalfe any thing in these Presents conteined to the contrary in any wise notwithstanding In Witnesse &c Witnesse ourselves at Westminster the seaventh day of October.

By Writt of Privy Seale.

This is a true Copy from the original Record remaining in the Chapel of the Rolls, having been examined.

JOHN KIPLING.

APPENDIX No. XIV.

EXTRACT OF A LETTER

FROM THE

LORDS COMMISSIONERS FOR TRADE AND PLANTATIONS

TO THE

EARL OF BELLOMONT, DATED 30TH OCTOBER, 1700.

The address of the General Assembly of the Massachusetts Bay to his Majesty received with the first of those Letters, shall be laid before his Majesty, with a Representation, which we intend to prepare on the same matters. What has hindered us hitherto from doing it is the want of a Draught of the Charter for Harvard Colledge, and such other informations as we expected to receive from Sir Henry Ashurst, in pursuance of the directions which your Lordship writes you had given him on that subject. We have writ to Sir Henry Ashurst about it some while since, but have yet received no answer.

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No 14.

Letter from the
Lords Commissioners of Trade
and Plantations,
to the Earl of
Bellomont.

As to the Boundaries we have always insisted, and shall insist upon the English Right as far as the River St Croix; but in the mean while, in relation to the Incroachments of the French and their building a Church on Kennebeck River that seems to us a very proper occasion for your Lordships urging the General Assembly of the Massachusetts Bay to rebuild the Fort at Pemaquid, which they ought to have done long ago; and thereby they might have prevented this and many other inconveniences. The alarm they have had from the Indians, is also another argument to make them think seriously of that matter, and they ought to be pressed to it with all possible earnestness.

The Acts that you have sent us of the Massachusetts Bay, past there the 29th of May last, are not under Seal; but we suppose we shall ere long receive an authentick Copy thereof (as we have done others formerly) from Mr Addington, and then they shall be considered.

The Representations that we were preparing, upon the Acts of the General Assembly of the Massachusetts Bay having been laid before their Excellencies, we send you copies thereof here inclosed; to which we refer ourselves, for the reasons of what we have therein offered and when we receive orders thereupon, they shall also be transmitted to you that they may be observed.

In relation to those Acts, we send you also, herewith, a Copy of some Remarks, that we have made upon divers of them, which we think very proper to be observed by the General Assembly of the Massachusetts Bay, upon all like occasions.

Mr Hillary Renue, a member of the Lustring Company, who has had many occasions to apply to us in behalf of that Company, has lately communicated to us the Copy of a Letter he writ to your Lordship the 6th of March 1698, relating to lustrings and Alamodes unlawfully imported into New England, which letter he says was delivered to your Hands: and he has further desired us to recommend the matter he writes about to your Lordships care.

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No. 14.

Letter from the
Lords Commis-
sioners of Trade
and Plantations,
to the Earl of
Ellenborough.

Tho' we cannot advise your Lordship to those particular methods which he suggests, because the Act upon which he grounds his desire is not in force in New England, as he supposes it to be, yet the Act of the 15th of King Charles the 2nd forbidding That any Commodity of the Growth, Production & manufacture of Europe, be imported into any of his Majesty's Plantations, but what shall be bona fide, and without fraud, shipped in England, Wales or the Town of Berwick, &c. being a sufficient authority for stopping of that indirect trade; we think your Lordship will do very well to discourage it by all legal means, and more especially by charging the Officers of the Customes that they be very vigilant in the discharge of their duty in that particular.

We desire your Lordship to be mindful of his Majesty's Instruction for sending home yearly accounts of the Arms, Ammunition and Stores remaining in all his Majesty's Magazines and Garrisons in several Provinces under your Government: and to take care that those Accounts be regularly transmitted, as his Majesty has directed.

We also desire your Lordship (as we shall do the Governours of all his Majesty's other Plantations respectively) that a memorandum be entered upon the Council Books of all your Governments, to caution them, that whenever any of those Governments, by the death, absence or Removal of a Governor or Lieutenant Governor immediately commissioned by his Majesty, comes to devolve upon a President and the Council of any of those Plantations or Governments, such President and Council do forbear to pass any Acts, but such as are immediately necessary for the peace and Welfare of any of the respective Governments, without his Majesty's express order for that purpose.

COMMONWEALTH OF MASSACHUSETTS,
SECRETARY'S OFFICE.

I hereby certify, that the foregoing is a true Copy of Record as existing in this Office.

In testimony of which, I have hereunto affixed the Seal of the said Commonwealth, in my custody and possession, this twentieth day of September, in the year of our Lord one thousand eight hundred and twenty-eight, and of the Independence of the United States of America the fifty-third.

[L. s.]

EDWARD D. BANGS,
Secretary of the Commonwealth.

COMMISSIONS

OF THE

GOVERNORS OF NOVA SCOTIA.

viz :

| | | | |
|--------------------------|-------|-------------------------|-------|
| Richard Philipps, | 1719. | Montague Wilmot, | 1763 |
| Ditto. | 1721. | William Campbe l, | 1765 |
| Edward Cornwallis, | 1749. | Francis Legge, | 1773. |
| Henry Ellis, | 1761. | John Parr, | 1782. |

COMMISSION TO RICHARD PHILIPPS, ESQUIRE,

AS GOVERNOR OF PLACENTIA, AND CAPTAIN-GENERAL AND GOVERNOR-IN-CHIEF
OF NOVA SCOTIA, 11TH SEPT: 2 GEO: II. 1719.

First part of Patents in the Second year of King George the Second

George the Second by the Grace of God &c to our trusty and welbeloved Richard Philipps Esquire greeting *Whereas our late Royal Father of blessed memory did by his Letters Patents under his Great Seal of Great Britain bearing date at Westminster the ninth day of July in the Fifth year of his reign constitute and appoint you the said Richard Philipps Governor of Placentia in Newfoundland and Captain General and Governor in Chief in and over his province of Nova Scotia or Acadie in America* torand during his said late Majesties will and pleasure as by the said recited Letters Patents relation being thereunto had may more fully and at large appear In which said office by virtue of the statute in such case made and provided he was continued for the space of six months from the time of the demise of his said late Majestie and by virtue of our Royal proclamacon for that purpose issued bearing date the fifth day of July in the first year of our reign he is continued until our pleasure be further known or other provision be made concerning the said office Now know you that wee have revoked and determined and by these presents do revoke and determine the said recited Letters Patents and every clause article and thing therein contained *And further know you that wee* reposing especial trust and confidence in the prudence courage and loyalty of you the said Richard Philipps out of our especial grace certain knowledge and meere mocon *Have thought fit to constitute and appoint and by these presents do constitute and appoint you the said Richard Philipps to be our Governor of Placentia in Newfoundland and our Captain General and Governor in Chief in and over our province of Nova Scotia or Acadie in America* And Wee do hereby require and command you to do and execute all things in due manner that shall belong unto your said command and the trust wee have reposed in you according to the several powers and authorities granted or appointed you by this present comission and the Instructions herewith given you or by such further powers instructions or authorities as shall at any time hereafter be granted or appointed you under our Signet and Sign manual or by our order in our privy Council and according to such reasonable laws and statutes as hereafter shall be made and as-

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No. 15.

Commissions of
the Governors of
Nova Scotia.

Richard Philipps,
11th September,
1719.

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Commissions of
the Governors of
Nova Scotia.

Richard Philipps,
11th September,
1719

sented to by you with the advice and consent of our Council and Assembly of our said Province hereafter to be appointed and for the better administration of Justice and management of the publick affaires of our said province Wee hereby give and grant unto you the said Richard Philipps full power and authority to choose nominate and appoint such fitting and discreet persons as you shall either find there or carry along with you not exceeding the number of Twelve to be of our Council in our said province till our further pleasure be known any five whereof we do hereby appoint to be a quorum which being done you shall your selfe take and also administer unto each of the members of our said Council the oathes mencioned in an act passed in the first year of His said late Majesties Reign entituled (an act for the further security of His Majesties person and Government and the succession of crown in the heires of the late Princess Sophia being protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors) as also to make and subscribe and cause them to make and subscribe the Declaracon mencioned in an act of Parliament made in the twenty fifth year of the Reigne of King Charles the Second entituled (An act for preventing dangers which may happen from Popish Recusants) and you and every one of them are to take an oath for the due execution of your and their places and trusts as well with regard to the equal and unequal administration of Justice in all causes that shall come before you as in all other matters and likewise the oath required to be taken by all Governors of Plantations to do their utmost that the laws relating to the plantacons be observed all which oaths Wee do hereby empower any five of our said Council to administer to you and wee do hereby give and grant unto you the said Richard Philipps by your selfe or by your Captains and commanders by you to be authorized full power and authority to levy arm muster command and employ all persons whatsoever residing within our said province of Nova Scotia under your Government and as occasion shall serve to march from one place to another or to embark them for the resisting and withstanding of all enemies pirates and rebels both at Sea and Land and to transport such Forces to any of our plantations in America if necessity shall require for defence of the same against the Invasion or attempts of any of our enemies and such enemies pirates and rebels if there shall be occasion to pursue and prosecute in or out of the limits of our said province and if it shall so please God them to vanquish apprehend and take and being taken according to Law to put to death or keep and preserve alive at your discretion and to execute martial Law in time of invasion insurrection or other times when by Law it may be executed and to do and execute all and every other thing and things which to our Captain General and Governor in Chief doth or ought of right to belong And wee do likewise give and grant unto you full power and authority by and with the advice and consent of our said Council to settle and agree with the Inhabitants of our said province of Nova Scotia for such Lands Tenements and Hereditaments as now are or hereafter shall be in our power to dispose of and them to grant to any person or persons upon such Fines and under such moderate quit rents services and acknowledgements to be thereupon reserved unto us as you by and with the advice aforesaid shall think fit which said Grants being entered upon record by such officer as you shall appoint thereunto shall be good and effectual in Law against our heires and successors And wee do hereby give and grant unto you the said Richard Philipps or to any five or more of the Council full power and authority to administer the aforementioned oathes unto every person in the said province capable by the Laws to take the same And wee do hereby further give full power and authority to you the said Richard Philipps to do execute and performe all and every such further act and acts as shall or may tend or conduce to the security of our said province and the good people thereof and to the honour of our Crown And our further will and pleasure is and wee do hereby require and command all officers and ministers civil and military and all other Inhabitants of our said province of Nova Scotia to be obedient aiding and assisting unto

you the said Richard Philipps in the execution of this our Commission and of the powers and authorities therein contained And in case of your death or absence out of our said province to be obedient aiding and assisting to such person as is or shall be appointed by us to be our Lieutenant Governor or Commander in Chief for the time being to whom wee do therefore by these presents give and grant all and singular the powers and authorities herein granted to be by him executed and enjoyed during our pleasure or until your arrival within our said province And wee do hereby declare ordain and appoint that you the said Richard Philipps shall and may hold execute and enjoy the office and place of our Governor of Placentia in Newfoundland and our Captain General and Governor in Chief in and over our said province of Nova Scotia with all its and appurtenances whatsoever together all and singular the powers and authorities hereby granted unto you for and during our will and pleasure In Witness &c Witness our selfe at Westminster the eleventh day of September.

Appendix.
No. 15.

Commissions of
the Governors of
Nova Scotia.

Richard Philipps,
11th September,
1719.

By Writt of Privy Seal

This is a true Copy from the Original Record remaining in the Chapel of the Rolls, having been examined.

JOHN KIPLING.

COMMISSION OF RICHARD PHILIPS, ESQUIRE,

AS GOVERNOR OF PLACENTIA AND CAPTAIN-GENERAL AND GOVERNOR-IN-CHIEF
OF NOVA SCOTIA, 9TH JULY, 5 GEO: II.

Secunda pars Paten de anno Regni Regis Georgij quinto.

George by the grace of God &c To our trusty and welbeloved Richard Philips Esquire
Greeting

Richard Philipps
9th July, 1721

Know yee that Wee reposing especial trust and confidence in the prudence courage and loyalty of you the said Richard Philips out of our especial grace certain knowledge and meer mocon Have thought fit to constitute and appoint And *by these Presents Do constitute and appoint you the said Richard Philips to be our Governor of Placentia in Newfoundland and our Captain General and Governor in Chief in and over our Province of Nova Scotia or Acadie in America* And wee Do hereby require and comand you to do and execute all things in due manner that shall belong unto your said Command and the trust wee have reposed in you according to the several powers and directions granted or appointed you by this present Commission and the Instruecons herewith given you or by such further powers instruecons or authorities as shall at any time hereafter be granted or appointed you under our Signet and Sign Manual or by your Order in our Privy Council and according to such reasonable Laws and Statutes as hereafter shall be made and assented to by you with the advice and consent of our Council and Assembly of our said Province hereafter to be appointed and for the better administration of Justice and management of the Publick Affairs of our said province Wee hereby give and grant unto you the said Richard Philips full power and authority to chuse nominate and appoint such fitting and discreet persons as you shall either find there or carry along with you not exceeding the number of twelve to be of our Council in our said Province till our further pleasure be known any five whereof Wee do hereby appoint to be a Quorum which being done you shall your-selfe take care and also administer unto each of the Members of our said Council the Oathes mencioned in an Act passed in the first year of our reign entituled An Act for the

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Richard Phillips,
9th July, 1721.

further security of His Majesties person and government and the succession of the crown in the heires of the late Princess Sophia being Protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and secret Abettors as also to make and subscribe and cause the Members of our said Council to make and subscribe the Declaration menconed in an Act of Parliament made in the twenty fifth year of the reign of King Charles the Second intituled An Act for preventing dangers which may happen from Popish Recusants And you and every one of them are to take an Oath for the due execution of your and their places and trusts as well with regard to the equal and impartial administration of Justice in all Causes that shall come before you as in all other matters and likewise the Oath required to be taken by all Governors of Plantations to do their utmost that the laws relating to the Plantations be observed All which Oaths Wee do hereby empower any five of our said Council to administer to you And Wee Do hereby give and grant unto you the said Richard Philips by yourselfe or by your Captains and Comanders by you to be authorized full power and authority to levy arm muster comand and employ all persons whatsoever residing within our said Province of Nova Scotia under your Government and as occasion shall serve to march from one place to another or to embark them for the resisting and withstanding of all enemys pirates and rebels both at sea and at land and to transport such Forces to any of our Plantacons in America if necessity shall require for defence of the same against the invasion or attempts of any of our enemys And such enemys pirates and rebels if there shall be occasion to pursue and prosecute in or out of the limits of our said Province and if it shall so please God them to vanquish apprehend and take and being taken according to Law to put to death or keep and preserve alive at your discretion and to execute Martial law in time of Invasion Insurrection Warr or other times when by law it may be executed and to do and execute all and every other thing and things which to our Captain Generall and Governor in Chief doth or ought of right to belong And Wee Do likewise give and grant unto you full power and authority by and with the advice and consent of our said Council to settle and agree with the Inhabitants of our said Province of Nova Scotia for such Lands Tenements and Hereditaments as now are or hereafter shall be in our power to dispose of and them to grant to any person or persons upon such terms and under such moderate Quitt Rents services and acknowledgements to be thereupon reserved unto us by you (by and with the advice aforesaid) shall think fit which said grants being entered upon record by such officers as you shall appoint thereunto shall be good and effectual in Law against us our heires and successors And Wee Do hereby give and grant unto you the said Richard Philips or to any five or more of the Council full power and authority to administer the afore menconed oaths unto every person in the said province capable by the laws to take the same And Wee do hereby further give full power and authority to you the said Richard Philips to do execute and perform all and every such further act and Acts as shall or may tend or conduce to the security of your said province and the good people thereof and to the honor of the crown And our further will and pleasure is and Wee do hereby require and comand all officers and ministers civil and military and all other Inhabitants of our said province of Nova Scotia to be obedient aiding and assisting unto you the said Richard Philips in the execution of this our Comission and of the powers and authorities herein contained And in case of your death or absence out of our said province to be obedient aiding and assisting to such person as is or shall be appointed by us to be our Lieutenant Governor or Comander in Chief for the time being to whom wee do therefore by these presents give and grant all and singular the powers and authorities herein granted to be by him executed and enjoyed during our pleasure or until your arrival within our said province And wee do hereby declare ordaine and appoint that you the said Richard Philips shall and may hold execute and enjoy the Office and place of our Governor of Placentia in Newfoundland and our Captain General and Governor in

Chief in and over our said province of Nova Scotia with all and singular the powers and authorities hereby granted unto you for and during our will and pleasure In Witness &c. Witnesse Our selfe at Westminster the ninth day of July.

By Writt of Privy Seal

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Commissions of
the Governors of
Nova Scotia

This is a True Copy from the Original Record remaining in the Chapel of the Rolls, having been examined.

JOHN KIPLING.

COMMISSION TO EDWARD CORNWALLIS,

AS CAPTAIN GENERAL AND GOVERNOR-IN-CHIEF OF NOVA SCOTIA, 6TH MAY,
22 GEO: II. 1749.

Second part of Patents in the twenty second year of King George the Second

GOVERNOR OF NOVA SCOTIA *Commission*

George the Second by the Grace of God of Great Britain France and Ireland King Defender of the Faith &c. To our Trusty and Welbeloved The Honorable Edward Cornwallis Esqr. Greeting Whereas we did by our Letters patent under our Great Seal of Great Britain bearing date at Westminster the Eleventh day of September in the Second year of our Reign Constitute and appoint Richard Philips Esquire our Captain General and Governor in Chief in and over our Province of Nova Scotia or Accadie in America with all the Rights members and appurtenances whatsoever thereunto belonging for and during our will and pleasure as by the said Recited Letters patent relation being thereunto had may more fully and at large appear Now Know You that We have revoked and determined And by these presents Do revoke and determine the said recited Letters Patent and every Clause Article and thing therein contained And further *Know you that We* reposing especial Trust and Confidence in the prudence Courage and Loyalty of you the said Edward Cornwallis of our especial Grace certain knowledge and meer motion Have thought fit to constitute and appoint And by these presents Do constitute and appoint you the said Edward Cornwallis to be our Captain General and Governor in Chief in and over our Province of Nova Scotia or Accadie in America with all the rights members and appurtenances whatsoever thereunto belonging And We do hereby require and command you to do and execute all things in due manner that shall belong unto your said Command and the Trust we have reposed in you according to the several powers and authorities granted or appointed you by this present commission and the Instructions herewith given you or by such further powers Instructions and authorities as shall at any time hereafter be granted or appointed you under our Signet and Sign Manual or by our Order in our Privy Council and according to such reasonable Laws and Statutes as hereafter shall be made or agreed upon by you with the advice and consent of our Council and the Assembly of our said Province under your Government hereafter to be appointed in such manner and form as hereafter expressed And for the better administration of Justice and management of the public affairs of our said Province We hereby give and Grant unto you the said Edward Cornwallis full power and authority to Chuse Nominate and Appoint such fitting and Discreet persons as you shall either find there or carry along with you not exceeding the number of twelve to be of our Council in our said Province as also to nominate and appoint by warrant under your hand and Seal all such other Officers and Ministers as you shall judge proper and necessary for our Service and the Good of the people whom We shall settle in our

Edward Cornwallis, 6th May, 1749

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said Province until our further will and pleasure shall be known And our Will and pleasure is that you the said Edward Cornwallis (after the publication of these our Letters patent) do take the Oaths appointed to be taken by an Act passed in the first year of his late Majesty Our Royal Fathers Reign Entituled (An act for the further security of His Majestys person and Government and the Succession of the Crown in the heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and Secret Abettors) as also that you may make and subscribe the Declaration mentioned in an Act of Parliament made in the twenty-fifth year of the reign of King Charles the Second Entituled (An Act for preventing dangers which may happen from Popish Recusants) and likewise that you take the usual Oath for the due execution of the Office and Trust of our Captain General and Governor in Chief of our said Province for the due and impartial administration of Justice And furtler that you take the Oath required to be taken by Governors of Plantations to do their utmost that the several Laws relating to trade and the plantations be observed All which said Oaths and Declaration our Council in our said province or any five of the members thereof have hereby full power and authority and are required to tender and administer unto you and in your absence to our Lieutenant Governor if there be any upon the place all which duly performed you shall administer unto each of the Members of our said Council as also to our Lieutenant Governor if there be any upon the place the said Oaths mentioned in the said Act intituled (An act for the further Security of his Majesty's person and Government and the succession of the Crown in the Heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and Secret Abettors) as also to cause them to make and subscribe the aforementioned Declaration and to administer to them the Oath for the due execution of their places and Trusts And We do hereby give and grant unto you full power and authority to suspend any of the Members of our said Council to be appointed by you as aforesaid from sitting voting and assisting therein if you shall find just Cause for so doing And if it shall at any time happen that by the death departure out of our said province suspension of any of our said Councillors or otherwise there shall be a vacancy in our said Council (any five whereof we do hereby appoint to be a Quorum) Our Will and pleasure is that you signify the same unto us by the first opportunity That We may under our signet and sign Manual constitute and appoint others in their stead But that our affairs at that distance may not suffer for want of a due Number of Councillors if ever it shall happen that there be less than nine of them residing in our said Province We do hereby give and grant unto the said Edward Cornwallis full power and authority to chuse as many persons out of the principal freeholders Inhabitants thereof will make up the full Number of our said Council to be nine and no more which persons so chosen and appointed by you shall be to all intents and purposes Councillors in Our said Province until either they shall be confirmed by us or that by the nomination of others by us under our Sign Manual and Signet Our said Council shall have Nine or more persons in it And we do hereby give and Grant unto you full power and authority with the advice and consent of our said Council from time to time as need shall require to summon and call General Assemblys of the said Freeholders and planters within your Government according to the usage of the rest of our Colonies and plantations in America And our Will and pleasure is that the persons thereupon duly elected by the major part of the Freeholders of the respective counties and places and so returned shall before their sitting take the Oaths mentioned in the said Act Entituled (An act for the further Security of His Majesty's person and Government and the Succession of the Crown in the Heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and secret Abettors) as also make and subscribe the aforementioned Declaration (Which Oaths and declaration you shall commissionate fit persons under our Seal of Nova Scotia to tender and administer unto them and until the same

shall be so taken and subscribed no person shall be capable of sitting tho' Elected) And we do hereby declare that the persons so elected and Qualified shall be called and deemed the General Assembly of that our Province of Nova Scotia And that you the said Edward Cornwallis with the advice and consent of our said Council and Assembly or the Major part of them respectively shall have full power and authority to make constitute and ordain Laws Statutes and Ordinances for the public peace welfare and good Government of our said Province and of the people and Inhabitants thereof and such others as shall resort thereto and for the benefit of us our Heirs and Successors which said Laws Statutes and Ordinances are not to be repugnant but as near as may be agreeable to the Laws and Statutes of this our Kingdom of Great Britain Provided that all such Laws Statutes and Ordinances of what nature or duration soever be within three Months or sooner after the making thereof transmitted to us under our Seal of Nova Scotia for our approbation or disallowance of the same as also Duplicates by the next conveyance And in case any or all of the said Laws Statutes and Ordinances not before confirmed by us shall at any time be disallowed and not approved and so signified by us our heirs or successors under our or their sign Manual and Signet or by order of Our or Their Privy Council unto you the said Edward Cornwallis or to the Commander in Chief of our said Province for the time being then such and so many of the said Laws Statutes and Ordinances as shall be so disallowed and not approved shall from thenceforth cease determine and become utterly void and of none effect any thing to the contrary thereof notwithstanding And to the end that nothing may be passed or done by our said Council or Assembly to the prejudice of us our Heirs and Successors We Will and ordain that you the said Edward Cornwallis shall have and enjoy a Negative Office in the making and passing of all Laws Statutes and Ordinances as aforesaid And you shall and may likewise from time to time as you shall judge it necessary adjourn prorogue and dissolve all General Assemblies as aforesaid And our further Will and pleasure is that you shall and may keep and use the public Seal of our Province of Nova Scotia for sealing all things whatsoever that pass the Great Seal of our said Province under your Government And we do further Give and Grant unto you the said Edward Cornwallis full power and authority from time to time and at any time hereafter by yourself or by any other to be authorized by you in that behalf to administer and give the oaths mentioned in the aforesaid Act to all and every such person or persons as you shall think fit who shall at any time or times pass into our said Province or shall be resident or abiding there And we do by these presents give and grant unto you the said Edward Cornwallis full power and authority with the advice and consent of our said Council to erect constitute and establish such and so many Courts of Judicature and public Justice within our said Province and Dominion as you and they shall think fit and necessary for the hearing and determining of all causes as well criminal as civil according to Law and Equity and for awarding of Execution thereupon with all reasonable and necessary powers authorities fees and privileges belonging thereunto as also to appoint and commissionate fit persons in the several parts of your Government to administer the oaths mentioned in the aforesaid Act Entituled (An act for the further Security of His Majestys person and Government and the Succession of the Crown in the heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and Secret Abettors) as also to tender and administer the aforesaid Declaration unto such persons belong to the said Courts as shall be obliged to take the same And we do hereby authorize and empower you to constitute and appoint Judges and in cases requisite Commissioners of Oyer and Terminer Justices of the peace and other necessary Orders and Ministers in our said Province for the better Administration of Justice and putting the Laws in execution and to administer or cause to be administered unto them such Oath or Oaths as are usually given for the due execution and performances of Offices and places and for the clearing of truth in Judicial Causes And We do hereby

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6th May, 1749.

give and Grant unto you full power and authority where you shall see cause or shall judge any offender or offenders in Criminal matters or for any fines or Forfeitures due unto us fit objects of Our Mercy to pardon all such offenders and to remit all such offences Fines and Forfeitures Treason and wilful Murder only excepted In which case you shall likewise have power upon Extraordinary occasion to grant Reprieves to the offenders until and to the Intent our Royal Pleasure may be known therein we do by these presents authorize and empower you to Collate any person or persons to any Churches Chapels or other Ecclesiastical Benefices within our said Province as often as any of them shall happen to be void And we do hereby give and Grant unto you the said Edward Cornwallis by yourself or by your Captains and commanders by you to be authorized full power and authority to levy arm muster Command and employ all persons whatsoever residing within our said Province and as occasion shall serve to march from one place to another or to embark them for the resisting and withstanding of all Enemies pirates and Rebels both at Land and Sea and to Transport such forces to any of our plantations in America if necessity shall require for the defence of the same against the Invasion or attempts of any of our Enemies and such Enemies pirates and Rebels (if there shall be occasion) to pursue and prosecute in or out of the limits of our said Province and plantations or any of them and (if it shall so please God) to vanquish apprehend and take them and being taken according to Law to put to death or keep and preserve them alive at your discretion and to execute Martial Law in time of Invasion or other times when by Law it may be executed and to do and execute all and every other Thing or Things which to our Captain General and Governor in Chief doth or ought of right to belong And we do hereby give and Grant unto you full power and authority by and with the advice and consent of our said Council of Nova Scotia to Erect Raise and build in our said Province such and so many Forts and platforms Castles Cities Boroughs Towns and Fortifications as you by the advice aforesaid shall judge necessary and the same or any of them to Fortify and furnish with Ordnance Ammunition and all sorts of arms necessary for the security and defence of our said Province and by the advice aforesaid the same again or any of them to Demolish or Dismantle as may be most convenient And for as much as divers mutinies and disorders may happen by persons shipped and employed at Sea during the time of War and to the end that such as shall be shipped and employed at Sea during the time of War may be better Governed and Ordered We do hereby give and grant unto you the said Edward Cornwallis full power and authority to constitute and appoint Captains Lieutenants Masters of Ships and other Commanders and Officers and to grant to such Captains Lieutenants Masters of Ships and other Commanders and Officers Commissions in time of War to execute the Law Martial according to the directions of such Laws as are now in force or shall hereafter be passed in Great Britain for that purpose and to use such proceedings authorities punishments and Executions upon any Offender or Offenders who shall be Mutinous Seditious disorderly or any way unruly either at Sea or during the time of their abode or residence in any of the Ports Harbours or Bays of our said Province as the cause shall be found to require according to Martial Law and the said directions during the time of War as aforesaid Provided that nothing herein contained shall be construed to the Enabling you or any by your authority to hold plea or have any Jurisdiction of any Offence cause matter or thing committed or done upon the High Sea or within any of the Havens Rivers or Creeks of our said province under your Government by any Captain Commander Lieutenant Master Officer Seaman Soldier or person whatsoever who shall be in our actual service and pay in or on Board any of our Ships of War or other Vessels acting by immediate Commission or Warrant from our Commissioners for executing the Office of our High Admiral or from Our High Admiral of Great Britain for the time being under the Seal of our Admiralty but that such Captain Commander Lieutenant Master Officer Seaman Soldier or other person so offending shall be left to be proceeded against and tried as their Offences shall require either by Commission under

Our Great Seal of Great Britain as the Statute of the twenty eighth of Henry the Eighth directs or by commission from our said Commissioners for executing the Office of Our High Admiral or from our High Admiral of Great Britain for the time being according to the aforementioned Act for the Establishing Articles and Orders for the Regulating and better Government of His Majestys Navys Ships of War and Forces by Sea and not otherwise Provided nevertheless that all disorders and misdemeanors committed on shore by any Captain Commander Lieutenant Master Officer Seaman Soldier or other person whatsoever belonging to any of our Ships of War or other vessels acting by immediate Commission or Warrant from our said Commissioners for executing the Office of High Admiral or from our High Admiral of Great Britain for the time being under the seal of our Admiralty may be tried and punished according to the Laws of the place where any such Disorders Offences and Misdemeanors called be committed on Shore notwithstanding such Offender be in our actual service and borne in our pay on board any such our Ships of War or other vessel acting by immediate Commission or Warrant from our said Commissioners for executing the Office of High Admiral of Great Britain for the time being as aforesaid so as he shall not receive any protection for the avoiding of Justice for such Offences committed on shore from any pretence of his being employed in our Service at Sea And our further Will and pleasure is that all public money raised or which shall be raised by any Act hereafter to be made within our said province be issued out by Warrant from you and with the advice and consent of the Council and disposed of by you for the support of the Government and not otherwise And we do likewise Give and Grant unto you full power and authority by and with the advice and consent of our said Council to settle and agree with the Inhabitants of our Province for such Lands Tenements and Hereditaments as now are or hereafter shall be in our power to dispose of and them to grant to any person or persons upon such terms and under such moderate Quit Rents Services and acknowledgements to be thereupon reserved unto us as you (by and with the advice aforesaid) shall think fit which said Grants are to pass and be sealed by our Seal of Nova Scotia and being Entered upon Record by such Officer or Officers as shall be appointed thereunto shall be good and effectual in Law against us our heirs and Successors And we do hereby give you the said Edward Cornwallis full power to order and appoint Fairs Marts and Markets as also such and so many Ports Harbours Bays Havens and other places for convenience and Security of Shipping and for the better loading and unloading of Goods and Merchandizes as by you with the advice and consent of the said Council shall be thought fit and necessary And we do hereby require and Command all Officers and Ministers Civil and Military and all other Inhabitants of our said Province to be obedient aiding and assisting unto you the said Edward Cornwallis in the Execution of this our Commission and of the powers and authorities herein contained and in case of your death or absence out of our said Province to be obedient aiding and assisting unto such person as shall be appointed by us to be our Lieutenant Governor or Commander in Chief of our said Province To whom we do therefore by these presents Give and Grant all and singular the powers and authorities herein granted to be by him executed and enjoyed during our pleasure or until your arrival within our said Province And if upon your death or absence out of our said Province there be no person upon the place Commissionated or appointed by us to be our Lieutenant Governor or Commander in Chief of the said Province Our Will and pleasure is that the Eldest Councillor who shall be at the time of your death or absence residing within our said Province shall take upon him the administration of the Government and execute our said Commission and Instructions and the several powers and authorities therein contained in the same manner and to all Intents and purposes as other Our Governor or Commander in Chief should or ought to do in case of your absence until your return or in all cases until our further pleasure be known therein And We do hereby declare ordain and appoint that you the said Edward Cornwallis shall and may hold execute and en-

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Edward Cornwallis,
6th May, 1749

Appendix. joy the Office and place of Our Captain General and Governor in Chief in and over our
 No. 15. said Province of Nova Scotia with all its rights members and appurtenances whatsoever
 Commissions of together with all and singular the powers and authorities hereby granted unto you for
 the Governors of and during Our Will and pleasure
 Nova Scotia.

In witness &c Witness &c the sixth day of May in the twenty second year of our
 Reign

By Writ of Privy Seal

This is a true Copy from the Original Record remaining in the Chapel of the Rolls,
 having been examined.

JOHN KIPLING.

COMMISSION TO HENRY ELLIS, ESQUIRE,

AS CAPTAIN GENERAL AND GOVERNOR-IN-CHIEF OF NOVA SCOTIA, 24TH SEPTEMBER, 1 GEO: III. 1761.

Twelfth part of Patents in the first year of King George the Third.

HENRY ELLIS Esq

Governor of Nova Scotia

Henry Ellis, 24th
 September, 1761

George the Third by the grace of God of Great Britain France and Ireland King Defender of the Faith &c. To our trusty and welbeloved Henry Ellis Esquire Greeting *Whereas our late Royal Grandfather* of blessed memory *did by his Letters Patent under his Great Seal of Great Britain bearing date at Westminster the seventh day of January in the twenty ninth year of His Reign constitute and appoint Charles Lawrence Esquire Captain General and Governor in Chief in and over his province or Nova Scotia or Acadia in America with all the rights members and appurts whatsoever thereunto belonging* for and during his late majesty's will and pleasure as by the said recited Letters Patent relation being thereunto had may more fully and at large appear Now know you that wee have revoked and determined And by these presents do revoke and determine the said recited Letters Patent and every clause article and thing therein contained And further *know you that wee* reposing especial trust and confidence in the prudence courage and loyalty of you the said Ellis of our especial grace certain knowledge and meer motion have thought fit to constitute and appoint And *by these presents do constitute and appoint you the said Henry Ellis to be our Captain General and Governor in Chief in and over our Province of Nova Scotia or Acadia in America with all the rights members and appurts whatsoever thereunto belonging* And we do hereby require and command you to do and execute all things in due manner that shall belong unto your command and the trust wee have reposed in you according to the several powers and authorities granted or appointed you by this present commission and the Instructions herewith given you by such further powers Instructions and authorities as shall at any time hereafter be granted or appointed you under our signet and sign manual or by our order in our Privy Council and according to such reasonable Laws and Statutes as hereafter shall be made or agreed upon by you with the advice and consent of our Council and the Assembly of our said Province under your Government hereafter to be appointed in such manner and form as is herein after expressed And our will and pleasure is that you the said Henry Ellis after the publication of these our Letters Patent do take the oaths appointed to be taken by an act passed in the first year of the reign of King George the First of blessed memory entitled [An Act for the further security of His Majesty's Person and Government and

the succession of the Crown in the heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors] as also that you make and subscribe the Declaration mentioned in an act of Parliament made in the fifth year of the Reign of King Charles the Second entitled [An Act for preventing dangers which may happen from Popish recusants] and likewise that you take the usual oath for the due execution of the office and trust of our Captain General and Governor in Chief of our said Province for the due and impartial administration of Justice And further that you take the oath required to be taken by Governors of Plantations to do their utmost that the several laws relating to Trade and the Plantations be observed All which said oaths and declaration our Council in our said Province or any five of the members thereof have hereby full power and authority and are required to tender and administer unto you and in your absence to our Lieutenant Governor if there be any upon the place All which being duly performed you shall administer unto each of the members of our said Council as also to our Lieutenant Governor if there be any upon the place the said oaths mentioned in the said act entitled [An Act for the further security of His Majesty's person and Government and the Crown in the heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors] as also to cause them to make and subscribe the afore mentioned declaration and to administer to them the oath for the due execution of their places and trusts And wee do hereby give and grant unto you full power and authority to suspend any of the members of our said Council from sitting voting acting and assisting therein if you shall find just cause for so doing And if it shall at any time happen that by the death departure out of our said Province suspension of any of our said Councillors or otherwise there shall be a vacancy in our said Council (any five whereof wee do hereby appoint to be a quorum) our will and pleasure is that you signify the same unto us by the first opportunity that wee may under our signet and sign manual constitute and appoint others in their stead But that our affairs at that distance may not suffer for want of a due number of Councillors if ever it shall happen that there shall be less than nine of them residing in our said Province wee do hereby give and grant unto you the said Henry Ellis full power and authority to chuse as many persons out of the principal Freeholders Inhabitants thereof as will make up the full number of our said Council to be nine and no more which persons so chosen and appointed by you shall be to all intents and purposes Councillors in our said Province until either they shall be confirmed by us or that by the nomination of others by us under our sign manual and signet our said Council shall have nine or more persons And wee do hereby give and grant unto you full power and authority with the advice and consent of our said Council from time to time as need shall require to summon and call General Assemblies of the said Freeholders and Planters within your Government in such manner and form as you in your discretion shall judge most proper according to such further powers instructions and authorities as shall at any time hereafter be granted or appointed you under our signet and sign manual or by our order in our Privy Council And our will and pleasure is that the persons thereupon duly elected by the major part of the Freeholders of the respective counties and places and so returned shall before their sitting take the oaths mentioned in the said Act entitled [An Act for the further security of His Majesty's person and Government and the succession of the Crown in the heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors] and also make and subscribe the afore mentioned declaration (which oaths and declaration you shall commissionate fit persons under our seal of Nova Scotia to tender and administer unto them and until the same shall be so taken and subscribed no person shall be capable of sitting though elected) And wee do hereby declare that the persons so elected shall be called and deemed the General

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Assembly of that our Province of Nova Scotia and that you the said Henry Ellis with the advice and consent of our said Council and Assembly or the major part of them respectively shall have full power and authority to make constitute and ordain Laws Statutes and Ordinances for the publick peace welfare and good government of our said Province and of the people and inhabitants thereof and such others as shall resort thereto and for the benefit of us our heirs and successors which said Laws Statutes and Ordinances are not to be repugnant but as near as may be agreeable to the Laws and Statutes of this our Kingdom of Great Britain provided that all such Laws Statutes and Ordinances of what nature or duration soever be within three months or sooner after the making thereof transmitted to us under our seal of Nova Scotia for our approbation or disallowance of the same as also duplicates thereof by the next conveyance And in case any or all of the said Laws Statutes and Ordinances not before confirmed by us shall at any time be disallowed and not approved and so signified by us our heirs or successors under our or their sign manual and signet or by order of our or their Privy Council unto you the said Henry Ellis or to the Commander in Chief of our said Province for the time being then such and so many of the said Laws and Ordinances as shall be so disallowed and not approved shall from thenceforth cease determine and become utterly void and of none effect any thing to the contrary thereof notwithstanding And to the end that nothing may be passed or done by our said Council or Assembly to the prejudice of us our heirs and successors wee will and ordain that you the said Henry Ellis shall have and enjoy a negative voice in the making and passing of all Laws Statutes and Ordinances as aforesaid And you shall and may likewise from time to time as you shall judge necessary adjourn prorogue and dissolve all General Assemblies as aforesaid And our further will and pleasure is that you shall and may keep and use the Publick Seal of our Province of Nova Scotia for sealing all things whatsoever that pass the Great Seal of our said Province under your Government And wee do further give and grant unto you the said Henry Ellis full power and authority from time to time and at any time hereafter by yourself or by any other to be authorised by you in that behalf to administer and give the oath mentioned in the aforesaid Act to all and every such person or persons as you shall think fit who shall at any time or times pass into our said Province shall be resident or abiding there And we do by these presents give and grant unto you the said Henry Ellis full power and authority with the advice and consent of our said Council to erect constitute and establish such and so many courts of judicature and publick justice within our said Province and Dominion as you and they shall think fit and necessary for the hearing and determining of all causes as well criminal as civil according to law and equity and for awarding execution thereupon with all reasonable and necessary powers authorities fees and privileges belonging thereunto And also to appoint and commissionate fit persons in the several parts of your government to administer the oaths mentioned in the aforesaid Act entituled [An Act for the further security of His Majesty's person and government and succession of the crown in the heirs of the late Princess Sophia being Protestants and extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors] As also to tender and administer the aforesaid declaration unto such persons belonging to the said Courts as shall be obliged to take the same And wee do hereby authorize and empower you to constitute and appoint Judges and in cases requisite Commissioners of Oyer and Terminer Justices of the Peace and other necessary officers and ministers in our said Province for the better administration of justice and putting the laws in execution and to administer or cause to be administered unto them such oath or oaths as are usually given for the due execution and performance of offices and places and for the clearing of truth in judicial causes And wee do hereby give and grant unto you full power and authority where you shall see cause or shall judge any offender or offenders in criminal matters or for any fines or forfeitures due unto us fit objects of our mercy

to pardon all such offenders and to remit all such offences fines and forfeitures treason and wilful murder only excepted In which cases you shall likewise have power upon extraordinary occasions to grant reprieves to the offenders until and to the intent our Royal pleasure may be known therein Wee do by these presents authorize and empower you to collate any person or persons to any person or persons to any churches chapels or other ecclesiastical benefices within our said Province as often as any of them shall happen to be void And wee do hereby give and grant unto you the said Henry Ellis by yourself or by your Captains and Commanders by you to be authorized full power and authority to levy arm muster command and employ all persons residing within our said Province and as occasion shall serve to march from one place to another or to embark them for the resisting and withstanding of all enemies pirates and rebels both at land and sea and transport such forces to any of our plantations in America if necessity shall require for defence of the same against the invasion or attempts of any of our enemies and such enemies pirates and rebels (if there shall be occasion) to pursue and prosecute in or out of the limits of our said Province and Plantations or any of them and (if it shall so please God) to vanquish apprehend and take them and being taken according to law to put to death or to keep and preserve them alive at your discretion and to execute martial law in time of invasion or other times when by law it may be executed and to do and execute all and every other thing or things which to our Captain General and Governor in Chief doth or ought of right to belong And wee do hereby give and grant unto you full power and authority by and with the advice and consent of our said Council of Nova Scotia to erect raise and build in our said Province such and so many Forts and Platforms Castles Cities Boroughs Towns and Fortifications as you by the advice aforesaid shall judge necessary and the same or any of them to fortify and furnish with ordnance ammunition and all sorts of arms fit and necessary for the security and defence of our said Province And by the advice aforesaid the same again or any of them to demolish or dismantle as may be most convenient And for as much as divers mutinies may happen by persons shipped and employed at sea during the time of war And to the end that such as shall be shipped and employed at sea during the time of war may be better governed and ordered wee do hereby give and grant unto you the said Henry Ellis full power and authority to constitute and appoint Captains Lieutenants Masters of ships and other commanders and officers and to grant to such Captains Lieutenants Masters of Ships and other Commanders and Officers commissions to execute the law martial during the time of war according to the directions of an Act passed in the twenty second year of the reign of our late royal Grandfather entitled [An Act for amending explaining and reducing into one Act of Parliament the Laws relating to the Government of His Majesty's Ships Vessels and Forces by Sea] and to use such proceedings authorities punishments and executions upon any offender or offenders who shall be mutinous seditious disorderly or any way unruly either at sea or during the time of their abode or residence in any of the ports harbours or bays of our said Province as the case shall be found to require according to martial law and the said Directions during the time of war as aforesaid Provided that nothing herein contained shall be construed to the enabling you or any by your authority to hold plea or have any jurisdiction of any offence cause matter or thing committed or done upon the high sea or within any of the havens rivers or creeks of our said Province under your government by any Captain Commander Lieutenant Master Officer Seaman Soldier or person whatsoever who shall be in our actual service and pay and in or on board any of our ships of war or other vessels acting by immediate commission or warrant from our Commissioners for executing the office of our High Admiral or from our High Admiral of Great Britain for the time being under the seal of our Admiralty but that such Captain Commander Lieutenant Master Officer Seaman Soldier or other person so offending shall be left to be proceeded against and tried as their offences shall require by commission under our Great Seal of Great Britain as the statute of the

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Appendix. twenty eighth of Henry the Eighth directs or by commission from our said commissioners for executing the office of our High Admiral or from our High Admiral of Great Britain for the time being according to the afore mentioned Act for amending explaining and reducing into one Act of Parliament the Laws relating to the Government of His Majestys Ships Vessels and Forces by sea and not otherwise Provided nevertheless that all disorders and misdemeanors committed on shore by any Captain Commander Lieutenant Master Officer Seaman Soldier or other person whatsoever belonging to any of ships of war or other vessels acting by immediate commission or warrant from our said commissioners for executing the office of High Admiral or from our High Admiral of Great Britain for the time being under the seal of our Admiralty may be tried and punished according to the Laws of the place where any such disorders offences and misdemeanors shall be committed on shore notwithstanding such offender be in our actual service and borne in our pay on board any such our ships of war or other vessels acting by immediate commission or warrant from our said Commissioners for executing the office of High Admiral or our High Admiral of Great Britain for the time being as aforesaid so as he shall not receive any protection for avoiding of Justice for such offences committed on shore from any pretence of his being employed in our service at sea And our further will and pleasure is that all publick money raised or which shall be raised by any Act hereafter to be made within our said Province be issued out by warrant from you by and with the advice and consent of the Council and disposed of by you for the support of the Government and not otherwise And wee do likewise give and grant unto you full power and authority by and with the advice and consent of our said Council to settle and agree with the Inhabitants of our Province for such Lands Tenements and Hereditaments as now are or hereafter shall be in our power to dispose of and them to grant to any person or persons upon such terms and under such moderate quit rents services and acknowledgements to be thereupon reserved unto us You by and with the advice aforesaid shall think fit which said grants are to pass and be sealed by our Seal of Nova Scotia and being entered upon record by such officer or officers as shall be appointed thereunto shall be good and effectual in Law against us our heirs and successors And wee do hereby give you the said Henry Ellis full power to order and appoint Fairs Marts and Markets as also such and so many Ports Harbours Bays Havens and other places for convenience and security of shipping and for the better loading and unloading of goods and merchandizes as by you with the advice and consent of the said Council shall be thought fit and necessary And wee do hereby require and command all officers and ministers civil and military and all other inhabitants of our said Province to be obedient aiding and assisting unto you the said Henry Ellis in the execution of this our commission and of the powers and authorities herein contained and in case of your death or absence out of our said Province to be obedient aiding and assisting unto such person as shall be appointed by us to be our Lieutenant Governor or Commander in Chief of our said Province To whom wee do therefore by these presents give and grant all and singular the powers and authorities herein granted to be by him executed and enjoyed during our pleasure or until your arrival within our said Province And if upon your death or absence out of our said Province there be no person upon the place commissioned or appointed by us to be our Lieutenant Governor or Commander in Chief of the said Province our will and pleasure is that the Eldest Councillor who shall be at the time of your death or absence residing within our said Province shall take upon him the Administration of the Government and execute our said commissson and instructions and the several powers and authorities therein contained in the same manner and to all intents and purposes as other our Governor or Commander in Chief should or ought to do in case of your absence until your return or in all cases until our further pleasure be known therein And wee do hereby declare ordain and appoint that you the said Henry Ellis shall and may hold execute

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and enjoy the office and place of our Captain General and Governor in Chief in and over our said Province of Nova Scotia with all its rights members and appurtenances whatsoever together with all and singular the powers and authorities hereby granted unto you for and during our will and pleasure

In Witness &c Witness ourself at Westminster the twenty fourth day of September

By Writ of Privy Seal.

This is a true copy from the original Record remaining in the Chapel of the Rolls, having been examined.

JOHN KIPLING.

COMMISSION TO MONTAGUE WILMOT, ESQUIRE,

AS CAPTAIN GENERAL AND GOVERNOR-IN-CHIEF OF NOVA SCOTIA, 21ST NOVEMBER,
4 GEO: III. 1763.

First part of Patents in the fourth year of the reign of King George the Third

MONTAGU WILMOT ESQ

Governor of Nova Scotia

George the Third by the Grace of God of Great Britain France and Ireland King Defender of the Faith &c To our Trusty and welbeloved Montagu Wilmot Esquire Greeting *Whereas we did* by our letters patent under the Great Seal of Great Britain dated at Westminster the third day of November in the first year of our reign constitute and appoint Henry Ellis Esquire Captain General and Governor in Chief in and over our province of Nova Scotia or Acadia in America with all the rights members and appurtenances whatsoever thereunto belonging for and during our will and pleasure as by the said recited Letters patent relation being thereunto had may more fully and at large appear Now know you that we have revoked and determined And by these present do revoke and determine the said recited Letters patent and every clause Article and thing therein contained *And further know you that* We reposing especial Trust and confidence in the prudence courage and Loyalty of you the said Montagu Wilmot of our especial grace certain knowledge and meer motion have thought fit to constitute and appoint And by these presents Do constitute and appoint you the said Montagu Wilmot to be our Captain General and Governor in Chief in and over our Province of Nova Scotia and which we have thought proper to restrain and comprise within the following limits vizt To the Northward our said province shall be bounded by the Southern Boundary of our Province of Quebec as far as the western Extremity of the Bay des Chaleurs To the Eastward by the said Bay and the Gulf of St Lawrence to the cape or promontary culled Cape Breton in the Island of that name including that Island the Island of St Johns and all other Islands within six leagues of the coast to the Southward by the Atlantick Ocean from the said Cape to Cape Sable including the Island of that name and all other Islands within Forty leagues of the coast with all the rights members and appurtenances whatsoever thereunto belonging and to THE WESTWARD although our said province hath anciently extended and doth of right extend as far as the River Pentagouet or Penobscot It shall be bounded by a Line drawn from Cape Sable across the entrance of the Bay of Fundy to the mouth of the River St Croix by the said river to its

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mot, 21st Novem-
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ber, 1763.

execute all things in due manner that shall belong unto your said command and the trust we have reposed in you according to the several powers and authorities granted or appointed you by the present Commission and the Instructions herewith given you or by such further powers Instruction and authorities as shall at any time hereafter be granted or appointed you under our signet and sign Manual or by our order in our privy council and according to such reasonable Laws and Statutes as are now in force or shall hereafter be made and agreed upon by you with the advice and consent of our Council and the Assembly of our said province under your government in such manner and form as is hereafter expressed And our will and pleasure is that you the said Montagu Wilmot after the publication of these our Letters patent do take the oaths appointed to be taken by an Act passed in the first year of the Reign of King George the First (entitled An act for the further security of His Majesty's person and government and the succession of the crown in the heirs of the late Princess Sophia being protestants and for extinguishing the hopes of the pretended prince of Wales and his open and secret Abettors) as also that you make and subscribe the Declaration mentioned in an act of Parliament made in the Twenty-fifth year of the Reign of King Charles the second Intituled (An act for preventing dangers which may happen from popish Recusants) And likewise that you take the usual Oath for the due execution of the office and Trust of our Captain General and Governor in Chief of our said province for the due and impartial administration of Justice And further that you take the oath required to be taken by Governors of Plantations to do their utmost that the several Laws relating to Trade and the plantations be observed all which said Oaths and Declaration our council in our said province or any five of the Members thereof have hereby full power and Authority and are required to tender and administer unto you and in your absence to our Lieutenant Governor if there be any upon the place All which being duly performed you shall administer unto each of the Members of our said Council as also to our Lieutenant Governor if there be any upon the place the said Oath mentioned in the said Act Intituled (An Act for the further security of his Majesty's person and government and the succession of the crown in the heirs of the late Princess Sophia being protestants and for extinguishing the hopes of the pretended prince of Wales and his open and secret abettors) as also to cause them to make and subscribe the aforementioned Declaration and to administer to them the Oath for the due execution of their places and Trusts And we do hereby give and grant unto you full power and authority to suspend any of the Members of our said council from sitting voting and assisting therein if you shall find just cause for so doing And if it shall at any time happen that by the death departure out of our said province suspension of any of our said Councillors or otherwise there shall be a vacancy in our said Council (any five whereof Wee do hereby appoint to be a Quorum) Our Will and Pleasure is that you signify the same unto us by the first opportunity that Wee may under our Signet and Sign Manual constitute and appoint others in their stead but that our affairs at that distance may not suffer for want of a due number of Councillors if ever it shall happen that there be less than three of them residing in our said Province Wee do hereby give and grant unto you the said Montagu Wilmot full power and authority to choose as many persons out of the principal Freeholders Inhabitants thereof as will make up the number of our said Council to be nine and no more which persons so chosen and appointed by you shall be to all intents and purposes Councillors in our said Province until either they shall be confirmed by us or by the nomination of others by us under our Sign Manual and Signet our said Council shall have nine or more persons in it And wee do hereby give and grant unto you full power and authority with the advice and

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consent of our said Council from time to time as need shall require to summon and call general Assemblies of the said Freeholders and Planters within your government in such manner and form as has been already appointed and used or according to such further Powers Instructions and authorities as shall at any time hereafter be granted or appointed you under our Signet and Sign Manual or by our Order in our Privy Council And our will and pleasure is that the persons thereupon duly elected by the major part of the Freeholders of the respective Counties and places and so returned shall before their sitting take the oath mentioned in the said Act Intituled (An act for the further security of his Majesty's person and government and the succession of the Crown in the heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors) as also make and subscribe the aforementioned declaration which Oaths and Declaration you shall commissionate fit persons under our Seal of Nova Scotia to tender and administer unto them and until the same shall be so taken and subscribed no person shall be capable of sitting though elected And wee do hereby declare that the persons so elected and qualified shall be called and deemed the General Assembly of that our Province of Nova Scotia And that you the said Montagu Wilmot with the advice and consent of our said Council and Assembly or the major part of them respectively shall have full power and authority to make constitute and ordain Laws Statutes and Ordinances for the publick peace welfare and good government of our said Province and of the people and inhabitants thereof and such others as shall resort thereto and for the benefit of us our heirs and successors which said Laws Statutes and Ordinances are not to be repugnant but as near as may be agreeable to the Laws and Statutes of this our Kingdom of Great Britain Provided that all such Laws Statutes and Ordinances or what nature or duration soever be within three months or sooner after the making thereof transmitted to us under our Seal of Nova Scotia for our approbation or disallowance of the same as also Duplicates thereof by the next conveyance and in case any or all of the said Laws Statutes and Ordinances not before confirmed by us shall at any time be disallowed and not approved and so signified by us our heirs or successors under our or their Sign Manual and Signet or by order of our or their Privy Council unto you the said Montagu Wilmot or to the Commander in Chief of our said Province for the time being Then such and so many of the said Laws Statutes and Ordinances as shall be so disallowed and not approved shall from thenceforth cease determine and become utterly void and of none effect any thing to the contrary thereof notwithstanding And to the end that nothing may be passed or done by our said Council or Assembly to the prejudice of us our heirs and successors We will and ordain that you the said Montagu Wilmot shall have and enjoy a negative voice in the making and passing of all Laws Statutes and Ordinances as aforesaid And you shall and may from time to time as you shall judge it necessary adjourn prorogue and dissolve all General Assemblies as aforesaid And our will and pleasure is that you shall and may keep and use the public Seal of our Province of Nova Scotia for sealing all things whatsoever that pass the great seal of our said Province under your government And we do further give and grant unto you the said Montagu Wilmot full power and authority from time to time and at any time hereafter by yourself or by any other to be authorized by you in that behalf to administer and give the oaths mentioned in the aforesaid Act to all and every such person or persons as you shall think fit who shall at any time or times pass into our said Province or shall be resident or abiding there And we do by these presents give and grant unto you the said Montagu Wilmot full power and authority with the advice and consent of our said Council to erect constitute and establish such and so many Courts of Judicature and Publick Justice within our said Province and dominion as you and they shall think fit and necessary for the hearing and determining of all causes as well criminal as civil according to Law and Equity and for awarding execution thereupon with all reasonable and necessary powers authorities fees and privilege

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ges belong thereunto as also to appoint and Commissionate fit persons in the several parts of your government to administer the oaths mentioned in the aforesaid Act Intituled (An Act for the further security of His Majesty's person and government and the succession of the Crown in the Heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors) as also to tender and administer the aforesaid Declaration unto such persons belonging to the said Courts as shall be obliged to take the same And we do hereby authorize and Impower you to constitute and appoint Judges and in cases requisite Commissioners of Oyer and Terminer Justices of the Peace and other necessary officers and Ministers in our said Province for the better administration of justice and putting the Laws in execution and to administer or cause to be administered unto them such oath or oaths as are usually given for the due execution and performance of offices and places and for the clearing of truth in judicial causes And we do hereby give and grant unto you full power and authority where you shall see cause or shall judge any offender or offenders in criminal matters or for any fines or forfeitures due unto us fit objects of our mercy to pardon all such offenders and to remit all such offences and Forfeitures Treason and wilful murder only excepted In which cases you shall likewise have power upon extraordinary occasions to grant Reprieves to the offenders until and to the intent our Royal Pleasure may be known therein We do by these presents authorize and impower you to collate any person or persons to any Churches Chapels or other ecclesiastical benefices within our said Province as often as any of them shall happen to be void And we do hereby give and grant unto you the said Montagu Wilmot by yourself or by your Captains and Commanders by you to be authorized full power and authority to Levy Arm Muster Command and Employ all persons whatsoever residing within our said Province and as occasion shall serve to march from one place to another or to embark them for the resisting and withstanding of all Enemies Pirates and Rebels both at Land and Sea and to Transport such Forces to any of our plantations in America if necessity shall require for the defence of the same against the Invasion or attempts of any of our Enemies and such Enemies Pirates and Rebels if there shall be occasion to pursue and prosecute in or out of the limits of our said Province and plantations or any of them and if it shall so please God to vanquish apprehend and take them and being taken according to Law to put to death or keep and preserve them alive at your discretion and to execute Martial Law in time of Invasion or other times when by Law it may be executed And to do and execute all and every other thing or things which to our Captain General and Governor in Chief doth or ought of right to belong And we do hereby give and grant you full power and authority by and with the advice and consent of our said Council of Nova Scotia to erect raise and build in our said Province such and so many Forts and Platforms Castles Cities Boroughs Towns and Fortifications as you by the advice aforesaid shall judge necessary and the same or any of them to Fortify and Furnish with Ordnance Ammunition and all sorts of Arms fit and necessary for the security and defence of our said Province And by the advice aforesaid the same again or any of them to demolish or dismantle as may be most convenient And forasmuch as divers mutinies and disorders may happen by persons shipped and employed at Sea during the time of War and to the end that such as shall be shipped and employed at Sea during the time of War may be better governed and ordered We do hereby give and grant unto you the said Montagu Wilmot full power and authority to constitute and appoint Captains Lieutenants Masters of Ships and other Commanders and Officers and to grant to such Captains Lieutenants Masters of Ships and other Commanders and Officers Commissions to execute the Law Martial during the time of War according to the directions of an act passed in the Twenty second year of the Reign of our late Royal Grandfather Intituled (an Act for amending explaining and reducing into one Act of Parliament the Laws relating to the government of His Majesty's Ships

Vessels and Forces by Sea and to use such proceedings authorities Punishments and Executions upon any offender or offenders who shall be mutinous seditious disorderly or any way unruly either at Sea or during the time of their abode or residence in any of the Ports Harbours or Bays of our said Province as the case shall be found to require according to martial Law and the said directions during the time of war as aforesaid Provided that nothing herein contained shall be construed to the enabling you or any by your authority to hold plea or have any Jurisdiction of any offence cause matter or thing committed or done upon the High Sea or within any of the Havens Rivers or Creeks of our said Province under your government by any Captain Commander Lieutenant Master Officer Seaman Soldier or person whatsoever who shall be in our actual service and pay in or on board any of our Ships of War or other Vessels acting by immediate Commission or Warrant from our Commissioners for executing the office of our High Admiral or from our High Admiral of Great Britain for the time being under the Seal of our Admiralty but that such Captain Commander Lieutenant Master Officer Seaman Soldier or other Person so offending shall be left to be proceeded against and tried as their offences shall require either by Commission under our great Seal of Great Britain as the Statute of the Twenty Eighth of Henry the Eighth directs or by Commission from our said Commissioners for executing the Office of our High Admiral or from our High Admiral of Great Britain for the time being according to the aforementioned Act Entitled An Act for amending explaining and reducing into one act of Parliament the Laws relating to the government of His Majesty's Ships Vessels and Forces by Sea and not otherwise Provided nevertheless that all disorders and misdemeanors committed on shore by any Captain Commander Lieutenant Master Officer Seamen Soldier or other person whatsoever belonging to any of our Ships of War or other Vessels acting by immediate Commission or Warrant from our said Commissioners for executing the office of our High Admiral or from our High Admiral of Great Britain for the time being under the Seal of our Admiralty may be tried and punished according to the Laws of the place where any such disorders offences and misdemeanors shall be committed on shore notwithstanding such offender be in our actual Service and borne in our pay on board any such our Ships of War or other Vessels acting by immediate Commission or Warrant from our said Commissioners for executing the office of High Admiral or our High Admiral of Great Britain for the time being as aforesaid so as he shall not receive any protection for the avoiding of Justice for such offences committed on shore from any pretence of his being employed in our Service at Sea And our further will and pleasure is that all public money raised or which shall be raised by any Act hereafter to be made within our said Province be issued out by Warrant from you by and with the advice and consent of the Council and disposed of by you for the support of the government and not otherwise And we do likewise give and grant unto you full power and authority by and with the advice and consent of our said Council to settle and agree with the Inhabitants of our Province for such Lands Tenements and Hereditaments as now are or hereafter shall be in our power to dispose of and them to grant to any person or persons upon such terms and under such moderate Quit Rent Services and acknowledgements to be thereupon reserved unto us as you by and with the advice aforesaid shall think fit which said Grants are to pass and be sealed with our Seal of Nova Scotia and being entered upon Record by such Officer or Officers as shall be appointed thereunto shall be good and effectual in Law against us our heirs and successors Provided the same be made conformable to the Instructions herewith delivered to you or to such other Instructions as may hereafter be sent to you under our Signet and sign Manual or by our Order in our Privy Council which Instructions or any articles contained therein or any such order made in our Privy Council so far as the same shall relate to the Granting of Lands as aforesaid shall from time to time be published in the Province and entered of Record in like manner as the said grants themselves are hereby directed to be entered And Wee do hereby

Appendix.
No. 15.

Commissions of
the Governors of
Nova Scotia.

Montague-Wilmot.
21st November.
1763.

Appendix. give you the said Montagu Wilmot full power to order and appoint Fairs Marts and
 No. 15. Markets as also such and so many Ports Harbours Bays Havens and other places for
 Commissions of the Governors of Nova Scotia. convenience and security of Shipping and for the better loading and unloading of Goods
 and merchandizes as by you with the advice and consent of the said Council shall be
 thought fit and necessary And Wee do hereby require and command all Officers and
 Mon-ague Wilmot, 21st November, 1763. Ministers Civil and Military and all other Inhabitants of our said Province to be obedi-
 ent aiding and assisting unto you the said Montagu Wilmot in the execution of this
 our Commission and of the powers and authorities herein contained And in case of
 your death or absence out of our said Province to be obedient aiding and assisting unto
 such person as shall be appointed by us to be our Lieutenant Governor or Commander
 in Chief of our said Province to whom wee do therefore by these Presents give and
 grant all and singular the powers and authorities herein granted to be by him executed
 and enjoyed during our Pleasure or until your arrival within our said Province and if
 upon your death or absence out of our said Province there be no person upon the place
 commissioned or appointed by us to be our Lieutenant Governor or Commander in
 Chief of the said Province Our Will and Pleasure is that the Eldest Councillor who
 shall be at the time of your death or absence residing within our said Province shall
 take upon him the Administration of the Government and execute our said Commission
 and Instructions and the several powers and authorities therein contained in the same
 manner and to all intents and purposes as other our Governor or Commander in Chief
 should or ought to do in case of your absence until your return or in all cases until our
 further pleasure be known therein And we do hereby declare ordain and appoint that
 you the said Montagu Wilmot shall and may hold execute and enjoy the Office and
 place of our Captain General and Governor in Chief in and over our said Province of
 Nova Scotia with all its Rights Members and Appurts whatsoever together with all
 and singular the Powers and authorities hereby granted unto you for and during Our
 Will and Pleasure In Witness &c Witness Ourself at Westminster the twenty-first
 day of November

By Writt of Privy Seal

This is a true Copy from the Original Record remaining in the Chapel of the Rolls,
 having been examined.

JOHN KIPLING.

COMMISSION TO LORD WILLIAM CAMPELL,

AS CAPTAIN GENERAL AND GOVERNOR-IN-CHIEF OF NOVA SCOTIA, 11TH AUGT.
 6 GEO: III. 1765.

Fourth part of Patents in the sixth year of King George the Third

LD. CAMPBELL, Governor of Nova Scotia

William Campbell,
 11th August, 1765.

George the Third by the grace of God of Great Britain France and Ireland King
 Defender of the Faith &c To our Trusty and welbeloved William Campbell Esquire
 commonly called Lord William Campbell Greeting Wee reposing especial Trust and
 confidence in the prudence courage and Loyalty of you the said Lord William Camp-
 bell of our especial grace certain knowledge and meer motion have thought fit to con-
 stitute and appoint And by these presents Do constitute and appoint you the said
 Lord William Campbell to be our Captain General and Governor in Chief in and
 over our province of Nova Scotia bounded on the westward by a line drawn from

Cape Sable across the entrance of the Bay of Fundy to the mouth of the River St. Croix by the said River to its source and by a LINE DRAWN DUE NORTH FROM *Appendix.*
No. 15.

THENCE TO THE SOUTHERN BOUNDARY OF OUR COLONY OF QUEBEC TO THE NORTHWARD by the said Boundary as far as the western extremity of the Bay des Chaleurs to the Eastward by the said Bay and the Gulph of Saint Lawrence to the cape or promontory called Cape Breton in the Island of that name including that Island the Island of Saint Johns and all other Islands within six Leagues of the coast and to the southward by the Atlantick Ocean from the said cape to Cape Sable aforesaid including the Island of that name and all other Islands within Forty Leagues of the coast with all the Rights members and appurtenances whatsoever thereunto belonging and wee do hereby require and command you to do and execute all things in due manner that shall belong unto your said command and the trust wee have reposed in you according to the severall powers or authorities granted or appointed you by the present commission and the Instructions herewith given you or by such powers instructions and authorities as shall at any time hereafter be granted or appointed you under our Signet and sigh manual or by our order in our Privy Council and according to such reasonable Laws and Statutes as are now in force or shall hereafter be made or agreed upon by you with the advice and consent of our council and the assemblies of our said province under your government in such manner and form as is hereafter expressed And our will and pleasure is that you the said Lord William Campbell after the publication of these our Letters Patent do take the oaths appointed to be taken by an act passed in the first year of the Reign of King George the First Intituled an act for the further security of His Majesty's person and government and the succession of the crown in the heirs of the late Princess Sophia being protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors and by an act passed in the sixth year of our Reiga Intitled an act for altering the oath of abjuration and the assurance and for the amending so much of an act of the seventh year of her late Majesty Queen Anne Intituled an act for the improvement of the union of the two Kingdoms as after the time therein limited requires the delivery of certain Lists and copies therein mentioned to persons indicted of High Treason or misprision of Treason as also that you make and subscribe the Declaration mentioned in an act of Parliament made in the Twentyfifth year of the Reign of King Charles the second intituled (An Act for preventing dangers which may happen from Popish Recusants) and likewise that you take the usual oath for the execution of the office and Trust of our Captain General and Governor in Chief of our said Province for the due and impartial administration of Justice and further that you take the oath required to be taken by Governors of Plantations to do their utmost that the severall Laws relating to Trade and the Plantations be observed All which said Oaths and Declaration our Council in our said Province or any five of the members thereof have hereby full power and authority and are required to tender and administer unto you and in your absence to our Lieutenant Governor if there be any upon the place All which being duly performed you shall administer unto each of the members of our said Council as also to our Lieutenant General if there be any upon the place the said oaths mentioned in the said Acts Intituled "An act for the further security of his Majesty's person and government and the succession of the Crown in the heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the pretened Prince of Wales and his open and secret abettors An Act for altering the oath of abjuration and the assurance and for amending so much of an act of the seventh year of her late Majesty Queen Anne Intituled An Act for the improvement of the Union of the two Kingdoms as after the time therein limited requires the delivery of certain Lists and copies therein mentioned to Persons Indicted of High Treason or Misprision of Treason as also cause them to make and subscribe the aforementioned Declaration and administer to them the oath for the due execution of their places and Trusts And wee do hereby give and grant unto you full power and authority

Commissioners of
the Governors of
Nova Scotia.

William Campbell,
11th August, 1765.

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No. 15

Commissions of
the Governors of
Nova Scotia.

William Campbell,
11th August, 1765.

to suspend any of the members of our said Council from sitting voting and assisting therein if you shall find just cause for so doing And if it shall at any time happen that by the death departure out of our said Province suspension of any of our said Councillors or otherwise there shall be a vacancy in the said Council any five whereof Wee do appoint to be a Quorum Our Will and Pleasure is that you signify the same unto us by the first opportunity that wee may under Our Signet and Sign Manual constitute and appoint others in their stead But that our affairs at that distance may not suffer for want of a due number of Councillors if ever it shall happen that there be less than nine of them residing in our said Province Wee do hereby give and grant unto you the said Lord William Campbell full power and authority to choose as many persons out of the Principal Freeholders Inhabitants thereof as shall make up the full number of our said Council to be nine and no more which persons so chosen and appointed by you shall be to all intents and purposes Councillors in our said Province until either they shall be confirmed by us or by the nomination of others by us under our Sign Manual and Signet Our said Council shall have nine or more persons in it And wee do hereby give and grant unto you full power and authority with the advice and consent of our said Council from time to time as need shall require to summon and call general Assemblies of the said Freeholders and Planters within your government in such manner and form as has been already appointed and used or according to such further Powers Institutions and authorities as shall at any time hereafter be granted you under our Signet and Sign Manual or by our Order in Our Privy Council And our Will and Pleasure is that the persons thereupon duly elected by the major part of the Freeholders of the respective counties and places and so returned shall before their sitting take and subscribe the oaths menconed in the said Acts Intitled An Act for the further security of His Majesty's Person and Government and the succession of the Crown in the heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors And an Act for altering the oath of Abjuration and the Assurance and for amending so much of an act of the seventh year of her late Majesty Queen Anne Intitled (An Act for the improvement of the union of the two Kingdoms as after the time therein limited required the delivery of certain Lists and Copies therein mentioned to persons indicted of High Treason or Misprision of Treason) as also make and subscribe the aforementioned declaration which Oaths and Declaration you shall commisionate fit persons under our seal of Nova Scotia to tender and administer unto them and until the same shall be so taken and subscribed no person shall be capable of sitting though elected And Wee do hereby declare that the persons so elected shall be called and deemed the General Assembly of that our Province of Nova Scotia And that you the said Lord William Campbell with the advice and consent of our said Council and Assembly or the major part of them respectively shall have full power and authority to make constitute and ordain Laws Statutes and Ordinances for the Public Peace welfare and good government of our said Province and of the people and Inhabitants thereof and such others as shall resort thereto and for the benefit of us our heirs and successors which said Laws Statutes and Ordinances are not to be repugnant but as near as may be agreeable to the Laws and Statutes of this our Kingdom of Great Britain Provided that all such Laws Statutes and Ordinances of what nature or duration soever be within three months or sooner after the making thereof transmitted to us under our seal of Nova Scotia for our approbation or disallowance of the same as also duplicates thereof by the next conveyance and in case any or all of the said Laws Statutes and Ordinances not before confirmed by us shall at any time be disallowed and not approved and so signified by us our heirs or successors under our or their Sign Manual or Signet or by order of our or their Privy Council unto you the said Lord William Campbell or to the Commander in Chief of our said Province for the time being then such and so many of the said Laws Statutes and Ordinances as shall be so disallowed and not approved shall from henceforth

cease determine and become utterly void and of none effect any thing to the contrary thereof notwithstanding and to the end that nothing may be passed or done by our said Council or Assembly to the prejudice of us our heirs and successors Wee will and ordain that you the said Lord William Campbell shall have and enjoy a Negative Voice in the making and passing of all Laws Statutes and Ordinances as aforesaid and you shall and may likewise from time to time as you shall judge it necessary adjourn prorogue and dissolve all General Assemblys as aforesaid And our further Will and Pleasure is that you shall and may keep and use the public seal of our Province of Nova Scotia for sealing all things whatsoever that may pass the Great Seal of our said Province under your government And we do further give and grant unto you the said Lord William Campbell full power and authority from time to time and at any time hereafter by yourself or by any other to be authorized by you in that behalf to administer and give the oaths mentioned in the aforesaid acts to all and every such person or persons as you shall think fit who shall at any time or times pass into our said Province or shall be resident or abiding there And Wee do by these Presents give and grant unto you the said Lord William Campbell full power and authority with the advice and consent of our said Council to erect constitute and establish such and so many Courts of Judicature and Public Justice within our said Province as you and they shall think fit and necessary for the hearing and determining of all causes as well criminal and civil according to Law and Equity and for awarding execution thereupon with all reasonable and necessary powers authorities fees and privileges belonging thereunto as also to appoint and commissionate fit persons in the several parts of your government to administer the oaths mentioned in the aforesaid Acts Intituled An Act for the further security of His Majesty's person and government and the succession of the Crown in the heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors and An Act for altering the oath of Abjuration and the Assurance and for amending so much of an Act of the seventh year of her late Majesty Queen Anne Intituled An Act for the improvement of the Union of the Two Kingdoms as after the time limited requires the delivery of certain lists and copies therein mentioned to persons indicted of High Treason or Misprision of Treason as also to tender and administer the aforesaid declaration unto such persons belonging to the said Courts as shall be obliged to take the same And Wee do hereby authorize and empower you to constitute and appoint Judges and in cases requisite Commissioners of Oyer and Terminer Justices of the Peace and other necessary Officers and Ministers in our said province for the better administration of Justice and putting the Laws in Execution and to administer or cause to be administered unto them such oath or oaths as are usually given for the due Execution and performance of offices and places and for the clearing of truth in Judicial causes And wee do hereby give and grant unto you full power and authority where you shall see cause or shall judge any offender or offenders in criminal matters or for any fines or Forfeitures due unto us fit objects of our mercy to pardon all such offenders and to remit all such offenders fines and forfeitures Treason and Wilful Murder only excepted in which cases you shall likewise have power upon extraordinary occasions to grant reprieves unto the offenders until our Royal Pleasure may be known therein Wee do by these Presents authorize and empower you to collocate any person or persons to any Churches Chapels or other Ecclesiastical Benefices within our said Province as often as any of them shall happen to be void And wee do hereby give and grant unto you the said Lord William Campbell by yourself or by your Captains and Commanders by you to be authorized full power and authority to levy arm muster command and employ all persons whatsoever residing within our said Province and as occasion shall serve to march from one place to another or to embark them for the resisting and withstanding of all Enemies Pirates and Rebels both at Land and sea and to transport such forces to any of our plantations in America if necessity shall

Appendix.
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William Campbell,
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William Campbell,
11th August, 1763.

require for the defence of the same against the Invasion or attempts of any of our Enemies and such Enemies Pirates and Rebels if there shall be occasion to pursue and prosecute in or out of the limits of our said Province and Plantations or any of them and (if it shall so please God) to vanquish apprehend and take them and being taken according to Law to put to death or keep and preserve them alive at your discretion and to execute Martial Law in time of invasion or other times when by law it may be executed and to do and execute all and every other thing or things which to our Captain General or Governor in Chief doth or ought of right to belong And wee do hereby give and grant unto you full power and authority by and with the advice and consent of our said Council of Nova Scotia to erect raise and build in our said Province such and so many Forts and Platforms Castles Cities Boroughs Towns and Fortifications as you by the advice aforesaid shall judge necessary and the same or any of them to fortify and furnish with Ordnance Ammunition and all sorts of Arms fit and necessary for the security and defence of our said Province and by the advice aforesaid the same again or any of them to demolish or dismantle as may be most convenient And as much as divers mutinies and disorders may happen by persons shipped and employed at sea during the time of War and to the end that such as shall be shipped and employed at sea during the time of War may be better governed and ordered Wee do hereby give and grant unto you the said Lord William Campbell full power and authority to constitute and appoint Captains Lieutenants Masters of Ships and other Commanders and Officers and to grant to such Captains Lieutenants Masters of Ships and other Commanders and Officers Commissions to execute the Law Martial during the time of War according to the directions of an Act passed in the twenty-second year of the reign of our late Royal Grandfather Intituled An Act for amending explaining and reducing into one act of Parliament the Laws relating to the government of His Majesty's Ships Vessels and Forces by sea and to use such powers proceedings authorities punishments and executions upon any offender or offenders who shall be mutinous seditious disorderly or any way unruly either at sea or during the time of their abode or residence in any of the Ports Harbours or Bays of our said Province as the case shall be found to require according to Martial Law and the said directions during the time of War as aforesaid Provided that nothing herein contained shall be construed to the enabling you or any by your authority to hold plea or have any Jurisdiction of any offence cause matter or thing committed or done upon the High Sea or within any of the Havens Rivers or Creeks of our said Province under your government by any Captain Commander Lieutenant Master Officer Seaman Soldier or person whatsoever who shall be in our actual service and pay in or on board any of our Ships of War or other Vessels acting by immediate Commission or Warrant from Our Commissioners for executing the office of our High Admiral or from our High Admiral of Great Britain for the time being under the Seal of our Admiralty but that such Captain Commander Lieutenant Master Officer Seaman Soldier or other person so offending shall be left to be proceeded against and tried as their offences shall require either by Commission under our Great Seal of Great Britain as the Statute of the Twenty Eighth of Henry the Eighth directs or by comission from our said Commissioners for executing the office of High Admiral or from our High Admiral of Great Britain for the time being according to the aforementioned Act entitled An Act for amending explaining and reducing into One Act of Parliament the Laws relating to the government of his Majesty's Ships Vessels and forces by sea Provided nevertheless that all disorders and misdemeanors committed on shore by any Captain Comander Lieutenant Master Officer Seaman Soldier or other person whatsoever belonging to any of our Ships of War or other Vessels acting by immediate Commission or Warrant from our said Comissioners for executing the office of Our High Admiral or from our High Admiral of Great Britain for the time being under the seal of Our Admiralty may be tried and punished according to the Laws of the Place where any such disorder

ders offences and misdemeanors shall be committed on Shore notwithstanding such of-
 fender be in our actual service and borne in our pay on board any such our Ships of
 War or other vessels acting by immediate Commission or Warrant from our said Co-
 mmissioners for executing the Office of High Admiral of Great Britain for the time be-
 ing as aforesaid so as he shall not receive any protection for the avoiding of Justice for
 such offences committed on shore from any pretence of his being employed in our ser-
 vice at sea and Our further Will and Pleasure is that all Publick Money raised or which
 shall be raised by any act hereafter to be made within our said Province be issued out
 by Warrant from you by and with the advice and consent of the Council and disposed
 of by you for the support of the government and not otherwise And Wee do likewise
 give and grant unto you full power and authority by and with the advice and consent
 of our said Council to settle and agree with the Inhabitants of our Province for such
 Lands Tenements and Hereds as now are or shall hereafter be in our power to dispose
 of and them to grant to any person or persons upon such terms and under such mode-
 rate Quit Rents Services and acknowledgements to be thereupon reserved unto us as
 you by and with the advice aforesaid shall think fit which said grants are to pass and
 be sealed with Our Seal of Nova Scotia and being entered upon Record by such Oli-
 ceer or Officers as shall be appointed thereunto shall be good and effectual in Law
 against us our heirs and successors And wee do hereby give you the said Lord Wil-
 liam Campbell full power to order and appoint Fairs Marts and Markets as also such
 and so many Ports Harbours Bays Havens and other places for convenience and se-
 curity of shipping and for the loading and unloading of goods and merchandizes as by
 you with the advice and consent of the said Council shall be thought fit and necessary
 And Wee do hereby require and command all Officers and Ministers Civil and Mili-
 tary and all other Inhabitants of our said Province to be obedient aiding and assisting
 unto you the said Lord William Campbell in the execution of this our Commission
 and of the powers and authorities herein contained and in case of your death or ab-
 sence out of our said Province to be obedient aiding and assisting unto such person as
 shall be appointed by us to be our Lieutenant Governor or Commander in Chief of
 our said Province To whom Wee do therefore by these Presents give and grant all
 and singular the powers and authorities herein granted to be by him executed and dur-
 ing our pleasure or until your arrival within our said Province And if upon your
 death or absence out of our said Province there be no person upon the place Comis-
 sionated or appointed by us to be our Lieutenant Governor or Comander in Chief of
 our said Province Our will and pleasure is that the Eldest Councillor who shall be at
 the time of your death or absence residing within our said Province shall take upon
 him the administration of the government and execute our said Commission and In-
 structions and the several powers and authorities therein contained in the same man-
 ner and to all intents and purposes as other our Governor or Commander in Chief
 should or ought to do in case of your absence until your return or in all cases until our
 further pleasure be known therein And wee do hereby declare ordain and appoint
 that you the said Lord William Campbell shall hold execute and enjoy the office or
 place of our Captain General and Governor in Chief in and over our said Province of
 Nova Scotia with all its rights members and appurts whatsoever together with all and
 singular the powers and authorities hereby granted unto you for and during our will
 and pleasure In Witness &c Witness ourself at Westminster the Eleventh day of
 August

Appendix.
 No. 15.

Commissions of
 the Governors of
 Nova Scotia

William Campbell,
 11th August, 1763.

By Writt of Privy Seal

This is a true copy from the original Record remaining in the Chapel of the Rolls, having been examined.

JOHN KIPLING.

Appendix.
No. 15.

Commissions of
the Governors of
Nova Scotia.

Francis Legge,
22d July, 1773.

COMMISSION TO FRANCIS LEGGE ESQUIRE,

AS CAPTAIN-GENERAL AND GOVERNOR-IN-CHIEF OF NOVA SCOTIA, 22D JULY,

13 GEO: III. 1773.

Fifth part of Patents in the thirteenth year of King George the Third

FRANCIS LEGGE Esqr. *Governor of Nova Scotia*

George the Third by the Grace of God of Great Britain France and Ireland King Defender of the Faith &c To our Trusty and welbelov'd Francis Legge Esquire Greeting *Whereas wee did* by our Letters Patent under our Great Seal of Great Britain bearing date at Westminster *the eleventh day of August in the sixth year of our Reign constitute and appoint William Campbell Esquire* commonly called Lord William Campbell *Captain General and Governor in Chief in and over our Province of Nova Scotia in America bounded on the Westward by a Line drawn from Cape Sable across the entrance of the Bay of Fundy to the mouth of the River Saint Croix by the said River to its source and by a Line drawn due North from thence to the Southern Boundary of our Colony of Quebec to the Northward by the said Boundary as far as the Western extremity of the Bay des Chaleurs to the Eastward by the said Bay and the Gulph of Saint Lawrence to the Cape or Promontory called Cape Breton in the Island of that name including that Island the Island of Saint John and all other Islands within Six Leagues of the Coast and to the Southward by the Atlantick Ocean from the said Cape to Cape Sable aforesaid including the Island of that name and all other Islands within Forty Leagues of the Coast with all the Rights members and appurtenances whatsoever thereunto belonging for and during our Will and Pleasure as by the said recited Letters Patent relation being thereunto had may more fully and at large appear* Now know you that we have revoked and determined and by these Presents do revoke and determine the said recited Letters Patent and every clause article and thing therein contained. *And further know you that we* reposing especial trust and confidence in the Prudence Courage and Loyalty of you the said Francis Legge of our especial grace certain knowledge and meer motion *have thought fit to constitute and appoint you the said Francis Legge to be our Captain General and Governor in Chief of our said Province of Nova Scotia bounded on the Westward by a Line drawn from Cape Sable across the entrance of the Bay of Fundy to the mouth of the River Saint Croix by the said River to its source and by a Line drawn due North from thence to the Southern Boundary of our Colony of Quebec to the Northward by the said Boundary as far as the Western extremity of the Baye des Chaleurs To the Eastward by the said Bay and the Gulph of Saint Lawrence to the Cape or Promontory called Cape Breton in the Island of that name including that Island and all other Islands within six Leagues of the Coast excepting our said Island of Saint John which Wee have thought fit to erect into a separate Government and to the Southward by the Atlantick Ocean from the said Cape to Cape Sable aforesaid including the Island of that name and all other Islands within forty Leagues of the Coast with all the Rights members and appurtenances thereunto belonging* And wee do hereby require and command you to do and execute all things in due manner that shall belong unto your said command and the Trust we have reposed in you according to the several powers and authorities granted or appointed you by the present Commission and the Instructions herewith given you or by such other powers instructions and authorities as shall at any time hereafter be granted or appointed you under our Signet and Sign Manual or by Our Order in our Privy Council and according to such reasonable Laws and Statutes as are now in force or shall hereafter be made or agreed upon by you with the advice and consent of our Council and the Assembly of our said Province under your

government in such manner and form as is hereafter expressed And our Will and pleasure is that you the said Francis Legge after the publication of these our Letters Patent do take the Oath appointed to be taken by an Act passed in the first year of the Reign of King George the First intituled "An Act for the further security of his Majesty's person and Government and the succession of the Crown in the Heirs of the late Princess Sophia being Protestants and for the extinguishing the hopes of the pretended Prince of Wales and his open and secret Abettors" as altered and explained by an Act passed in the sixth year of our Reign intituled "An Act for altering the Oath of Abjuration and the assurance and for amending so much of an Act of the seventh year of her late Majesty Queen Anne intituled "An Act for the improvement of the Union of the two Kingdoms as after the time therein limited requires the delivery of certain Lists and Copies therein mentioned to persons indicted of High Treason or Misprision of Treason" as also that you make and subscribe the declaration mentioned in an Act of Parliament made in the Twenty fifth year of the Reign of King Charles the Second intituled "An Act for preventing dangers which may happen to Popish Recusants" and likewise that you take the usual Oath for the due execution of the Office and Trust of our Captain General and Governor in Chief of our said Province for the due and impartial administration of Justice And further that you take the Oath required to be taken by Governors of Plantations to do their utmost that the several Laws relating to Trade and the Plantations be observed All which said Oaths and declaration Our Council in our said Province or any five of the members thereof have hereby full power and authority and are required to tender and administer unto you and in your absence to our Lieutenant Governor if there be any upon the place All which being duly performed you shall administer unto each of the members of our said Council as also to our said Lieutenant Governor if there be any upon the place the said Oaths mentioned in the said Acts intituled "An Act for the further Security of His Majesty's person and Government and the succession of the Crown in the Heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and secret Abettors" as altered and explained by the aforesaid Act "for altering the Oath of Abjuration and the Assurance and for amending so much of an Act of the seventh year of her late Majesty Queen Anne intituled "An Act for the improvement of the Union of the two Kingdoms as after the time therein limited requires the delivery of certain Lists and Copies therein mentioned to persons indicted of High Treason or Misprision of Treason" as also cause them to make and subscribe the aforementioned Declaration and administer to them the Oath for the due execution of their Places and Trusts And we do hereby give and grant unto you full power and authority to suspend any of the Members of our said Council from sitting voting and assisting therein if you shall find just cause for so doing And if it shall at any time happen that by the death departure out of our said Province suspension of any of our said Councillors or otherwise there shall be a vacancy in our said Council any five whereof we do hereby appoint to be a Quorum Our Will and pleasure is that you signify the same unto us by the first opportunity that we may tender our Signet and Sign Manual and constitute and appoint others in their stead But that our affairs at that distance may not suffer for want of a due number of Councillors if ever it shall happen that there be less than Nine of them residing in our said Province We do hereby give and grant unto you the said Francis Legge full power and authority to choose as many persons out of the principal Freeholders Inhabitants thereof as shall make up the full number of our said Council to be Nine and no more which persons so chosen and appointed by you shall be to all intents and purposes Councillors in Our said Province until either they shall be confirmed by us or by the nomination of others by us under our Sign Manual and Signet Our said Council shall have nine and no more persons in it And we do hereby give and grant unto you full power and authority with the advice and consent of our said Council from time to time as need shall

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No. 13. Government in such manner and form as has been already appointed and used accord-

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ing to such further Powers Instructions and Authorities as shall at any time hereafter be granted or appointed you under our Signet and Sign Manual or by Our Order in Our Privy Council. And our Will and Pleasure is that the persons thereupon duly elected by the major part of the Freeholders of the respective Counties and places and so returned shall before their sitting take the Oaths mentioned in the said Act intituled ‘ An act for the further security of His Majesty’s person and Government and the succession of the Crown in the Heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors’ as altered and explained by the aforesaid Act for altering the Oath of Abjuration and the assurance and for amending so much of an Act of the seventh year of her late Majesty Queen Anne intituled an Act for the improvement of the Union of the two Kingdoms as after the time therein limited requires the delivery of certain Lists and Copies therein mentioned to persons indicted of High Treason or Misprision of Treason” as also make and subscribe the afore mentioned Declaration which Oaths and Declaration you shall commissionate fit persons under Our Seal of Nova Scotia to tender and administer unto them and until the same shall be so taken and subscribed no person shall be capable of sitting though elected And we do hereby declare that the persons elected and qualified shall be called and deemed the General Assembly of that our Province of Nova Scotia And that you the said Francis Legge with the advice and consent of our said Council and Assembly or the major part of them respectively shall have full power and authority to make constitute and ordain Laws Statutes and Ordinances for the publick peace welfare and good government of our said Province and of the people and Inhabitants thereof and such others as shall resort thereto and for the benefit of us our heirs and successors which said Laws Statutes and Ordinances are not to be repugnant but as near as may be agreeable to the Laws and Statutes of this our Kingdom of Great Britain Provided that all such Laws Statutes and Ordinances of what nature or duration soever be within three months or sooner after the making thereof transmitted to us under our Seal of Nova Scotia for our approbation or disallowance of the same as also duplicates thereof by the next conveyance and in case any or all of the said Laws Statutes and Ordinances not before confirmed by us shall at any time be disallowed and not approved and so signified by us our Heirs or Successors under our or their Sign Manual and Signet or by order of our or their Privy Council unto you the said Francis Legge or to the Commander in Chief of our said Province for the time being then such and so many of the said Laws Statutes and Ordinances as shall be so disallowed and not approved shall from henceforth cease determine and become utterly void and of none effect any thing to the contrary thereof notwithstanding And to the end that nothing may be passed or done by our said Council or Assembly to the prejudice of us our Heirs and Successors We will and ordain that you the said Francis Legge shall have and enjoy a negative voice in the making and passing of all Law Statutes and Ordinances as aforesaid And you shall and may likewise from time to time as you shall judge it necessary adjourn prorogue and dissolve all General Assemblies as aforesaid And our further will and pleasure is that you shall and may keep and use the Publick Seal of our Province of Nova Scotia for sealing all things whatsoever that pass the Great Seal of our said Province under your government And We do further give and grant unto you the said Francis Legge full power and authority from time to time and at any time hereafter by yourself or by any other to be authorized by you in that behalf to administer and give the Oaths mentioned in the aforesaid Acts to all and every such person or persons as you shall think fit who shall at any time or times pass into our said Province or shall be resident or abiding there And we do by these presents give and grant unto you the said Francis Legge full power and authority with the advice and consent of our said Council to erect constitute and

establish such and so many Courts of Judicature and Public Justice within our said Province as you and they shall think fit and necessary for the hearing and determining of all causes as well criminal as civil according to Law and Equity and for awarding execution thereupon with all reasonable and necessary Powers Authorities Fees and Privileges belonging thereunto as also to appoint and commissionate fit persons in the several parts of your government to administer the Oaths mentioned in the aforesaid Act intituled "An Act for the further Security of His Majesty's Person and Government and the succession of the Crown in the Heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the Pretended Prince of Wales and his open and secret Abettors" as altered and explained by the aforesaid Act for altering the Oath of Abjuration and the assurance and for amending so much of an Act of the seventh year of her late Majesty Queen Anne intituled an Act for the improvement of the Union of the two Kingdoms as after the time therein limited requires the delivery of certain Lists and Copies therein mentioned to persons indicted of High Treason or Misprision of Treason as also to tender and administer the aforesaid Declaration unto such persons belonging to the said Courts as shall be obliged to take the same And also we do hereby authorize and empower you to constitute and appoint Judges and in cases requisite Commissioners of Oyer and Terminer Justices of the Peace and other necessary Officers and Ministers in our said Province for the better administration of Justice and putting the Laws in execution and to administer or cause to be administered unto them such Oath or Oaths as are usually given for the due execution and performance of Offices and places and for the clearing of Truth in Judicial causes And we do hereby give and grant unto you full power and authority where you shall see cause or shall judge any Offender or Offenders in Criminal matters or for any Fines or forfeitures due unto us fit objects of Our merey to pardon all such offenders and to remit all such Offences fines and forfeitures Treason and Wilful Murder only excepted In which cases you shall likewise have power upon extraordinary occasions to grant reprieves to the Offenders until and to the intent our Royal pleasure shall be known therein And whereas it belongeth to us in right of our Royal Prerogative to have the custody of Idiots and their Estates and to take the profits thereof to our own use finding them necessaries and also to provide for the custody of Lunaticks and their Estates without taking the profits thereof to our own use And whereas while such Idiots and Lunaticks and their Estates remain under our immediate care great trouble and charges may arise to such as shall have occasion to resort unto us for directions respecting such Idiots and Lunaticks and their Estates and considering that Writs of Inquiry of Idiots and Lunaticks are to issue out of our several Courts of Chancery as well in our Provinces in America as within this our Kingdom respectively and the Inquisitions thereupon taken are returnable in those Courts We have thought fit to intrust you with the care and commitment of the Custody of the said Idiots and Lunaticks and their Estates And we do by these Presents give and grant unto you full power and authority without expecting any further or special Warrant from us from time to time to give Order and Warrant for the preparing of Grants of the Custodies of such Idiots and Lunaticks and their Estates as are or shall be found by Inquisitions thereof taken or to be taken and returnable in our Court of Chancery and thereupon to make and pass Grants and Commitments under our Great Seal of our Province of Nova Scotia of the custodies of all and every such Idiots and Lunaticks and their Estates to such person or persons suitors in that behalf as according to the Rules of Law and the use and practice in those and the like cases you shall judge meet for that Trust the said Grants and Commitments to be made in such manner and form or as nearly as may be as hath been heretofore used and accustomed in making the same under the Great Seal of Great Britain and to contain such apt and convenient Covenants Provisions and Agreements on the part of the Committees and Grantees to be performed and security to be by them given as shall be requisite and needful And wee do by these Presents

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authorize and empower you to collate any person or persons to any Churches Chapels or other Ecclesiastical Benefices within our said Province as often as any of them shall happen to be void And we do hereby give and grant unto you the said Francis Legge by yourself or by your Captains and Commanders by you to be authorized full power and authority to levy arm muster command and employ all persons whatsoever residing within our said Province as occasion shall serve to march from one place to another or to imbarck them for the resisting and withstanding of all enemies Pirates and Rebels both at Land and Sea and to Transport such forces to any of our Plantation in America if necessity shall require for the defence of the same against the Invasion or attempts of any of our Enemies and such Enemies Pirates and Rebels (if there shall be occasion) to pursue and prosecute in or out of the limits of our said Province and Plantations or any of them (and if it shall so please God) to vanquish apprehend and take them and being taken according to Law to put to death or keep and preserve them alive at your discretion and to execute Martial Law in time of invasion or other times when by law it may be executed and to do and execute all and every other things which to our Captain General and Governor in Chief doth or ought of right to belong And we do hereby give and grant unto you full power and authority by and with the advice and consent of our said Council of Nova Scotia to erect raise and build in our said Province such and so many Forts Platforms Castles Cities Boroughs Towns and Fortifications as you by the advice aforesaid shall judge necessary and the same or any of them to Fortify and furnish with Ordnance Ammunition and all sorts of Arms fit and necessary for the security and defence of our said Province and by the advice aforesaid the same again or any of them to demolish or dismantle as may be most convenient And forasmuch as divers mutinies and disorders may happen by persons shipped and employed at Sea during the time of War and to end that such as shall be shipped and employed at Sea during the time of War may be better governed and ordered We do hereby give and grant unto you the said Francis Legge full power and authority to constitute and appoint Captains Lieutenants Masters of Ships and other Commanders and Officers and to grant to such Captains Lieutenants Masters of Ships and other Commanders and Officers Commissions to execute the Law Martial during the time of War according to the directions of an Act passed in the Twenty Second year of the Reign of our late Royal Grandfather Intituled "An Act for amending explaining and reducing into one Act of Parliament the Laws relating to the government of His Majesty's Ships Vessels and Forces by Sea and to use such proceedings authorities punishments executions upon any offender or Officers who shall be mutinous seditious disorderly or any way unruly either at Sea or during the time of their abode or Resilence in any of the Ports Harbours or Bays of our said Province as the case shall be found to require according to Martial Law and the said directions during the time of War as aforesaid Provided that nothing herein contained shall be construed to the enabling you or any by your authority to hold plea or have any Jurisdiction of any offence cause matter or thing committed or done upon the High Sea or within any of the Havens Rivers or Creeks of our said Provinces under your Government by any Captain Commander Lieutenant Master Officer Seaman Soldier or person whatsoever who shall be in our Actual Service and Pay in or on board any of our Ships of War or other vessels acting by immediate Commission or Warrant from our Commissioners for executing the office of our High Admiral of Great Britain for the time being under the Seal of our Admiralty but that such Captain Commander Lieutenant Master Officer Seaman Soldier or other person so offending shall be left to be proceeded against and tried as their offences shall require either by Commission under our Great Seal of Great Britain as the Statute of the Twenty Eighth of Henry the Eighth directs or by Commission from our said Commissioners for executing the Office of our High Admiral or from our High Admiral of Great Britain for

the time being according to the aforementioned Act Intituled "An Act for amending and explaining and reducing into one act of Parliament the Laws relating to the government of His Majesty's Ships Vessels and Forces by Sea and not otherwise Provided nevertheless that all disorders and misdemeanors committed on shore by any Captain Commander Lieutenant Master Officer Seaman Soldier or other person whatsoever belonging to any of our Ships of War or other Vessels acting by immediate Commission or Warrant from our said Commissioners for executing the office of our High Admiral or from our High Admiral of Great Britain for the time being under the Seal of our Admiralty may be tried and punished according to the Laws of the place where any such disorders Offences and misdemeanors shall be committed on shore notwithstanding such offender be in our actual Service and borne in our Pay on board any such our Ships of War or other Vessels acting by immediate Commission or Warrant from our said Commissioners for executing the Office of High Admiral or Our High Admiral of Great Britain for the time being as aforesaid so as he shall not receive any protection for the avoiding of Justice for such offences committed on shore from any pretence of his being employed in our Service at Sea And our further Will and Pleasure is that all publick money raised or which shall be raised by any act hereafter to be made within our said Province be issued out by Warrant from you by and with the advice and consent of the Council and disposed of by you for the support of the government and not otherwise And wee do likewise give and grant unto you full power and authority by and with the advice and consent of our said Council to settle and agree with the Inhabitants of our Province for such Lands Tenements and Hereditaments as now are or hereafter shall be in our Power to dispose of and them to grant to any person or persons upon such terms and under such moderate Quit Rents services and acknowledgments to be thereupon reserved unto us as you by and with the advice aforesaid shall think fit which said grants are to pass and be sealed with our Seal of Nova Scotia and being entered upon Records by such Officer or Officers as shall be appointed thereunto shall be good and effectual in Law against us our heirs and successors And we do hereby give you the said Francis Legge full power to order and appoint Fairs Marts and Markets as also such and so many Ports Harbours Bays Havens and other places for conveniences and security of Shipping and for the better loading and unloading of Goods and merchandizes as you by and with the advice and consent of the said Council shall be thought fit and necessary And we do hereby require and command all Officers and Ministers Civil and Military and all other Inhabitants of our said Province to be obedient aiding and assisting unto you the said Francis Legge in the execution of this our Commission and of the powers and authorities herein contained And in case of your death or absence out of our said Province to be obedient aiding and assisting unto such persons as shall be appointed by us to be our Lieutenant Governor or Commander in Chief of our said Province We do therefore by these Presents give and grant all and singular the powers and authorities herein granted to be by him executed and enjoyed during Our Pleasure or until your arrival within our said Province and if upon your death or absence out of our said Province there be no person upon the place commissioned or appointed by us to be our Lieutenant Governor or Commander in Chief of the said Province Our Will and pleasure is that the Eldest Councillor who shall be at the time of your death or absence residing within our said Province shall take upon him the administration of the government and execute our said Commission and Instructions and the several powers and authorities therein contained in the same manner and to all intents and purposes as other our Governor or Commander in Chief should or ought to do in case of your absence until your return or in all cases until our further pleasure be known therein And we do hereby declare ordain and appoint that you the said Francis Legge shall and may hold execute and enjoy the Office and place of our Captain General and Governor in Chief in and over our said Province of Nova

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By Writt of Privy Seal

This is a true Copy from the original Record remaining in the Chapel of the Rolls, having been examined.

JOHN KIPLING.

COMMISSION TO JOHN PARR, ESQUIRE,

AS CAPTAIN-GENERAL AND GOVERNOR-IN-CHIEF OF NOVA SCOTIA, 29TH JULY,
2 GEO: III. 1782.

Ninth part of Patents in the twenty-second year of King George the Third

JOHN PARR Esquire

Governor of Nova Scotia.

John Parr.
29th July, 1782.

George the Third by the grace of God of Great Britain France and Ireland King Defender of the Faith &c to our trusty and welbeloved John Parr Esquire greeting *Whereas wee did by our Letters Patent under our great seal of Great Britain bearing date at Westminster the twenty second day of July in the thirteenth year of our Reign constitute and appoint Francis Legge Esquire Captain General and Governor in Chief in and over our Province of Nova Scotia in America bounded on the westward by a line drawn from Cape Sable across the entrance of the Bay of Fundy to the mouth of the River Saint Croix by the said River to its source and by a LINE DRAWN DUE NORTH FROM THENCE TO THE SOUTHERN BOUNDARY OF OUR COLONY OF QUEBEC TO THE NORTHWARD by the said boundary as far as the western extremity of the Baye des Chaleurs to the eastward by the said Bay and the Gulph of Saint Lawrence to the Cape or Promontory called Cape Breton in the Island of that name including that Island and all other Islands within six leagues of the coast excepting our Island of Saint John which wee have thought fit to erect into a separate Government and to the southward by the Atlantick Ocean from the said Cape to Cape Sable aforesaid including the Island of that name and all other Islands within forty leagues of the coast with all the rights members and appurtenances whatsoever thereunto belonging for and during our will and pleasure as by the said recited Letters Patent relation being thereunto had may more fully and at large appear Now know you that wee have revoked and determined and by these presents do revoke and determine the said recited Letters Patent and every clause article and thing therein contained And further know you that wee reposing especial trust and confidence in the prudence courage and loyalty of you the said John Parr of our especial grace certain knowledge and meer motion have thought fit to constitute and appoint you the said John Parr to be our Captain General and Governor in Chief of our said Province of Nova Scotia bounded on the westward by a line drawn from Cape Sable across the entrance of the Bay of Fundy to the mouth of the River Saint Croix by the said River to its source and by a LINE DRAWN DUE NORTH FROM THENCE TO THE SOUTHERN BOUNDARY OF OUR COLONY OF QUEBEC TO THE NORTHWARD by the said boundary as far as the western extremity of the Baye des Chaleurs to the eastward by the said Bay and the Gulph of Saint Lawrence to the Cape or Promontory*

called Cape Breton in the Island of that name including that Island and all other Islands within six leagues of the coast (excepting our said Island of Saint John) and to the southward by the Atlantic Ocean from the said Cape to Cape Sable aforesaid including the Island of that name and all other Islands within forty leagues of the coast with all the rights members and appurtenances whatsoever thereunto belonging And wee do hereby require and command you to do and execute all things in due manner that shall belong unto your said command and the trust wee have reposed in you according to the several powers and authorities granted or appointed you by the present Commission and Instructions herewith given you or by such further powers instructions and authorities as shall at any time hereafter be granted or appointed you under our signet and sign manual or by our order in our Privy Council and according to such reasonable laws and statutes as are now in force or shall hereafter be made or agreed upon by you with the advice and consent of our Council and the Assembly of our said Province under your government in such manner and form as is hereinafter expressed And our will and pleasure is that you the said John Parr after the publication of these our Letters Patent do take the oaths appointed to be taken by an act passed in the first year of the Reign of King George the First intituled (An Act for the better security of His Majesty's person and Government of and the succession of the crown in the heirs of the late Princess Sophia being protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors) as altered and explained by an Act passed in the sixth year of our Reign intituled An Act for altering the oath of abjuration and the assurance and for amending so much of an Act of the seventh year of her late Majesty Queen Anne intituled An Act for the Improvement of the Union of the two Kingdoms as after the time therein limited requires the delivery of certain lists and copies therein mentioned to persons indicted for High Treason or Misprision of Treason as also that you make and subscribe the declaration mentioned in an Act of Parliament made in the twenty-fifth year of the Reign of King Charles the Second intituled (An Act for preventing dangers which may happen from Popish Recusants) and likewise that you take the usual oath for the due execution of the office and trust of our Captain General and Governor in Chief of our said Province for the due and impartial administration of justice And further that you take the oath required to be taken by Governors of Plantations to do their utmost that the several laws relating to Trade and the Plantations be observed All which said oaths and declaration our Council in our said Province or any five of the members thereof have hereby full power and authority and are required to tender and administer unto you and in your absence to our Lieutenant Governor if there be any upon the place All which being duly performed you shall administer unto each of the members of our said Council as also to our Lieutenant Governor if there be any upon the place the said oaths mentioned in the said first recited Act of Parliament altered as above as also cause them to make and subscribe the aforementioned declaration and administer to them the oath for the due execution of their places and trusts And wee do hereby give and grant unto you full power and authority to suspend any of the members of our said Council from sitting voting and assisting therein if you shall find just cause for so doing And if it shall at any time happen that by the death departure out of our said Province suspension of any of our said Councillors or otherwise there shall be a vacancy in our said Council (any five whereof we do hereby appoint to be a quorum) our will and pleasure is that you signify the same unto us by the first opportunity that wee may under our signet and sign manual constitute and appoint others in their stead But that our affairs at that distance may not suffer for want of a due number of Councillors if ever it shall happen that there be less than nine of them residing in our said Province wee do hereby give and grant unto you the said John Parr full power and authority to choose as many persons out of the principal freeholders inhabitants thereof as shall make up the full number of our said

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Council to be nine and no more which persons so chosen and appointed by you shall be to all intents and purposes Councillors in our said Province until either they shall be confirmed by us by the nomination of others by us under our sign manual and signet our said Council shall have nine or more persons in it And wee do hereby give and grant unto you full power and authority with the advice and counsel from time to time as need shall require to summon and call General Assemblies of the said freeholders and planters within your government in such manner and form as has been already appointed and used or according to such further powers instructions and authorities as shall at any time hereafter be granted or appointed you under our signet and sign manual or by our order in our Privy Council And our will and pleasure is that the persons thereupon duly elected by the major part of the freeholders of the respective counties and places and so returned shall before their sitting take the oaths mentioned in the first recited Act of Parliament altered as above as also make and subscribe the aforementioned declaration which oaths and declaration you shall commissionate fit persons under our seal of Nova Scotia to tender and administer unto them and until the same shall be so taken and subscribed no person shall be capable of sitting though elected And wee do hereby declare that the persons so elected and qualified shall be called and deemed the General Assembly of that our Province of Nova Scotia And that you the said John Parr with the advice and consent of our said Council and Assembly or the major part of them respectively shall have full power and authority to make constitute orlain laws statutes and ordinances for the public peace welfare and good government of the said Province and of the people and inhabitants thereof and such others as shall resort thereto and for the benefit of us our heires and successors which said laws statutes and ordinances are not to be repugnant but as near as may be agreeable to the laws and statutes of this our Kingdom of Great Britain Provided that all such laws statutes and ordinances of what nature or duration soever be within three months or sooner after the making thereof transmitted to us under our seal of Nova Scotia for our approbation or disallowance of the same as also duplicates thereof by the next conveyance And in case any or all of the said laws statutes and ordinances not before confirmed by us shall at any time be disallowed and not approved and so signified by us our heires or successors under our or their sign manual and signet or by order of our or their Privy Council unto you the said John Parr or to the Commander in Chief of our said Province for the time being then such and so many of the said laws statutes and ordinances as shall be so disallowed and not approved shall from thenceforth cease determine and become utterly void and of none effect any thing to the contrary thereof notwithstanding And to the end that nothing may be passed or done by our said Council or Assembly to the prejudice of us our heires and successors wee will and ordain that you the said John Parr shall have and enjoy a negative voice in making and passing of all laws statutes and ordinances as aforesaid And you shall and may likewise from time to time as you shall judge it necessary adjourn prorogue and dissolve all General Assemblies as aforesaid And our further will and pleasure is that you shall and may keep and use the public seal of our Province of Nova Scotia for sealing all things whatsoever that pass the great seal of our said Province under your government And wee do further give and grant unto you the said John Parr full power and authority from time to time and at any time hereafter by yourself or by any other to be authorized by you in that behalf to administer and give the oaths mentioned in the aforesaid Acts to all and every such person or persons as you shall think fit who shall at any time or times pass into our said Province as shall be resident or abiding there And wee do by these presents give and grant unto you the said John Parr full power and authority with the advice and consent of our said Council to erect constitute and establish such and so many Courts of Judicature and Public Justice within our said Province as you and they shall think fit and necessary for the hearing and determining of all causes as well

criminal as civil according to law and equity and for awarding execution thereupon with all reasonable and necessary powers authorities fees and privileges belonging thereunto as also to appoint and commissionate fit persons in the several parts of our Government to administer the oaths mentioned in the first recited Act of Parliament altered as above as also to tender and administer the aforesaid declaration unto such persons belonging to the said Courts as shall be obliged to take the same And wee do hereby authorize and empower you to constitute and appoint Judges and in cases requisite Commissioners of Oyer and Terminer Justices of the Peace and other necessary Officers and Ministers in our said Province for the better administration of justice and putting the laws into execution and to administer or cause to be administered unto them such oath or oaths as are usually given for the due execution and performance of offices and places and for the clearing of truth in judicial causes And wee do hereby give and grant unto you full power and authority where you shall see cause or shall judge any offender or offenders in criminal matters or for any fines or forfeitures due unto us fit objects of our mercy to pardon all such offenders and to remit all such offences fines and forfeitures treason and wilful murder only excepted In which cases you shall likewise have power upon extraordinary occasions to grant reprieves to the offenders until and to the intent our Royal pleasure may be known therein And whereas it belongeth to us in right of our Royal prerogative to have the custody of Idiots and their estates and to take the profits thereof to our own use finding them necessities And also to provide for the custody of Lunaticks and their estates without taking the profits thereof to our own use And whereas while such Idiots and Lunaticks and their effects remain under our immediate care great trouble and charges may arise to such as shall have occasion to resort unto us for directions respecting such Idiots and Lunaticks and their estates and considering that writs of inquiry of Idiots and Lunaticks are to issue out of our several Courts of Chancery as well in our Provinces in America as within this our Kingdom respectively and the inquisitions thereupon taken are returnable in those Courts wee have thought fit to entrust you with the care and commitment of the custody of the said Idiots and Lunaticks and their estates And wee do by these presents give and grant unto you full power and authority without expecting any further special warrant from us from time to time to give order and warrant for the preparing of grants of the custodies of such Idiots and Lunaticks and their estates as are or shall be found by inquisition thereof taken or to be taken and returnable into our Court of Chancery and thereupon to make and pass grants and commitments under our great seal of our Province of Nova Scotia of the custodies of all and every such Idiots and Lunaticks and their estates to such person or persons suitors in that behalf as according to the rules of law and the use and practice in those and the like cases you shall judge meet for that trust The said grants and commitments to be made in such manner and form or as nearly as may be as hath been heretofore used and accustomed in making the same under the great seal of Great Britain and to contain such apt and convenient covenants provisions and agreements on the part of the Committees and Grantees to be performed and such security to be by them given as shall be requisite and needful Wee do by these presents authorize and empower you to collate any person or persons to any Churches Chapels or other Ecclesiastical Benefices within our said Province as often as any of them shall happen to be void And wee do hereby give and grant unto you the said John Parr by yourself or by your Captains and Commanders by you to be authorized full power and authority to levy arm muster command and employ all persons whatsoever residing within our said Province and as occasion shall serve to march from one place to another or to embark them for the resisting and withstanding of all enemies pirates and rebels both at land and sea and to transport such forces to any of our Plantations in America if necessity shall require for the defence of the same against the invasion or attempts of any of our enemies and such enemies pirates

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Commissions of
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and rebels (if there shall be occasion) to pursue and prosecute in or out of the limits of our said Province and Plantations or any of them and (if it shall so please God) to vanquish apprehend and take them and being taken according to law to put to death or keep and preserve them alive at your discretion and to execute martial law in time of invasion or other times when by law it may be executed and to do and execute all and every other thing and things which to our Captain General and Governor in Chief doth or ought of right to belong And wee do hereby give and grant unto you full power and authority by and with the advice and consent of our said Council of Nova Scotia to erect raise and build in our said Province such and so many Forts and Platforms Castles Cities Boroughs Towns and Fortifications as you by the advice aforesaid shall judge necessary and the same or any of them to fortify and furnish with ordnance ammunition and all sorts of arms fit and necessary for the security and defence of our said Province and by the advice aforesaid the same again or any of them to demolish or dismantle as may be most convenient And forasmuch as divers mutinies and disorders may happen by persons shipped and employed at sea during the time of war and to the end that such as shall be shipped and employed at sea during the time of war may be better governed and ordered wee do hereby give and grant unto you the said John Parr full power and authority to constitute and appoint Captains Lieutenants Masters of Ships and other Commanders and Officers and to grant to such Captains Lieutenants Masters of Ships and other Commanders and Officers commissions to execute the law martial during the time of war according to the directions of an Act passed in the twenty-second year of the Reign of our late Royal Grandfather intituled (An Act for amending explaining and reducing into one Act of Parliament the laws relating to the government of His Majesty's ships vessels and forces by sea) as the same is altered by an Act passed in the nineteenth year of our Reign intituled An Act to explain and amend an Act made in the twenty-second year of the Reign of his late Majesty King George the Second intituled (Act for amending explaining and reducing into one Act of Parliament the laws relating to the government of His Majesty's ships vessels and forces by sea) and to use such proceedings authorities punishments and executions upon any offender or offenders who shall be mutinous seditious disorderly or any unruly either at sea or during the time of their abode or residence in any of the ports harbours or bays of our said Province as the case shall be found to require according to martial law and the said directions during the time of war as aforesaid Provided that nothing herein contained shall be construed to the enabling you or any by your authority to hold plea or have any jurisdiction of any offence cause matter or thing committed or done upon the high sea or within any of the havens rivers or creeks of our said Province under your government by any Captain Commander Lieutenant Master Officer Seaman Soldier or person whatsoever who shall be in our actual service or pay in or on board any of our ships of war or other vessels acting by immediate commission or warrant from our Commissioners for executing the office of our High Admiral or from our High Admiral of Great Britain for the time being under the seal of our Admiralty but that such Captain Commander Lieutenant Master Officer Seaman Soldier or other person so offending shall be left to be proceeded against and tried as their offences shall require either by commission under our great seal of Great Britain as the statute of the twenty-eighth of Henry the Eighth directs or by commission from our said Commissioners for executing the office of our High Admiral or from our High Admiral of Great Britain for the time being according to the aforementioned Act intituled (An Act for explaining amending and reducing into one Act of Parliament the laws relating to the government of His Majesty's ships vessels and forces by sea) Provided nevertheless that all disorders and misdemeanors committed on shore by any Captain Commander Lieutenant Master Officer Seaman Soldier or other person whatsoever belonging to any of our ships of war or other vessels acting by immediate commission

or warrant from our said Commissioners for executing the office of our High Admiral or from our High Admiral of Great Britain for the time being under the seal of Great Britain for the time being under the seal of our Admiralty may be tried and punished according to the laws of the place where any such disorders offences and misdemeanors shall be committed on shore notwithstanding such offender be in our actual service and borne in our pay on board any such our ships of war or other vessels acting by immediate commission or warrant from our said Commissioners for executing the office of our High Admiral or our High Admiral of Great Britain for the time being as aforesaid so as he shall not receive any protection for the avoiding of justice for such offences committed on shore from any pretence of his being employed in our service at sea And our further will and pleasure is that all public money raised or which shall be raised by any Act hereafter to be made within our said Province be issued out by warrant from you by and with the advice and consent of our said Council and disposed of by you for the support of the government or for such other purpose as shall be particularly directed in and by such Act and not otherwise And wee do likewise give and grant unto you full power and authority by and with the advice and consent of our said Council to settle and agree with the inhabitants of our Province for such lands tenements and hereditaments as now are or hereafter shall be in our power to dispose of and them to grant to any person or persons upon such terms and under such moderate quit rents services and acknowledgments to be thereupon reserved unto us as you (by and with the advice aforesaid) shall think fit which said grants are to pass and be sealed with our seal of Nova Scotia and being entered upon record by such officer or officers as shall be appointed thereunto shall be good and effectual in law against us our heirs and successors And wee do hereby give you the said John Parr full power to order and appoint fairs marts and markets as also such and so many ports harbours bays havens and other places for convenience and security of shipping and for the better loading and unloading of goods and merchandizes as by you with the advice and consent of our said Council shall be thought fit and necessary And wee do hereby require and command all Officers and Ministers civil and military and all other inhabitants of our said Province to be obedient aiding and assisting unto you the said John Parr in the execution of this our commission and of the powers and authorities herein contained and in case of your death or absence out of our said Province to be obedient aiding and assisting unto such person as shall be appointed by us to be our Lieutenant Governor or Commander in Chief of our said Province To whom wee do therefore by these presents give and grant all and singular the powers and authorities herein granted to be by him executed and enjoyed during our pleasure or until your arrival within our said Province And if upon your death or absence out of our said Province there be no person upon the place commissioned and appointed by us to be our Lieutenant Governor or Commander in Chief of our said Province our will and pleasure is that the eldest Councillor who shall be at the time of your death or absence residing within our said Province shall take upon him the administration of the government and execute our said commission and instructions and the several powers and authorities therein contained in the same manner and to all intents and purposes as other our Governor or Commander in Chief should or ought to do in case of your absence until your return or in all cases until our further pleasure be known therein And wee do hereby declare ordain and appoint that you the said John Parr shall and may hold execute and enjoy the office and place of our Captain General and Governor in Chief in and over our said Province of Nova Scotia with all its rights members and appurtenances whatsoever together with all and singular the powers and authorities hereby granted unto you for and during our will and pleasure In witness &c Witness ourself at Westminster the twenty-ninth day of July

By Writ of Privy Seal.

This is a true copy from the original record remaining in the Chapel of the Rolls, having been examined.

JOHN KIPLING.

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APPENDIX, No. XVI.

EXTRACT FROM THE OPINION

OF

THE ATTORNEY AND SOLICITOR GENERAL.

TO

THE RIGHT HONORABLE THE LORDS COMMISSIONERS OF TRADE AND PLANTATIONS,
AUGUST 11TH, 1731.

EXTRACT

FROM THE OPINION OF THE ATTORNEY AND SOLICITOR GENERAL, TO THE RIGHT
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torney and Solic-
itor General, to the
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sioners of Trade
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Upon this state of the case the questions proposed to us were,

1st. Whether the inhabitants of the Massachusetts Bay (if they ever had any right to the government of the said Tract of Land lying between St. Croix and Kennebeck or Sagadahock,) have not, by their neglect, and even refusal to defend, take care of and improve the same, forfeited their said right to the Government, and what right they had under the Charter, and now have, to the Lands.

2nd. Whether by the said Tract being conquered by the French, and afterwards reconquered by General Nicholson in the late Queen's time, and yielded up by France to Great Britain by the Treaty of Utrecht, that part of the Charter relating thereto became vacated? And whether the Government of that Tract and the Lands thereof, are not absolutely revested in the Crown, and whether the Crown has not thereby a sufficient power to appoint Governours, and assign Lands to such Families as shall be desirous to settle there?

Upon considering the said case and questions, and the evidence laid before us, and what was alleged on all sides, it appears to us,

That *all the said Tract of Land lying between the Rivers of Kennebeck and St. Croix, is* (among other things) *granted by the said Charter to the inhabitants of the said Province:* And that thereby power is given to the Governour and General Assembly of the said Province to make grants of lands within the said Limits, subject to a proviso that no such grants should be of any force until their said late Majesties, their Heirs or Successors, should have signified their approbation of the same. It appears also by the said Charter, That *the rights of Government granted to the said Province, extend over this Tract of Land.*

*It doth not appear to us that the inhabitants of the said Province have been Appendic.
guilty of any such neglect or refusal to defend this part of the country, as can No. 16.
create a forfeiture of that subordinate right of Government of the same, or
of such property in the soil, as was granted to them by the said Charter;*
it being sworn by several of the said affidavits, that a fort was erected there, and for
some time defended, at the charge of the Province, and that Magistrates and Courts of
Justice have been appointed within this District: And that one of the Council of the
Province hath always been chosen for this Division; And though it is certain that this
part of the Province hath not been improved equally with other parts thereof, yet,
considering the vast extent of Country granted by this Charter, and the great im-
provements made in several parts of it, we conceive that will not create a forfeiture,
because in such a case, it is not to be expected that the whole should be cultivated
and improved to the same advantage: And whether there has been such a neglect or
non use of any part, as may amount to a forfeiture, must be adjudged of not upon the
particular circumstances attending that part only, but upon the circumstances of the
whole.

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torney and Solicit-
or General, to the
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sioners of Trade
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*And if the Province had incurred any forfeiture in the present case, no advan-
tage could be taken thereof but by a legal proceeding by Seire facias to Repeal
their Charter, or by inquisition finding such forfeiture.*

As to the question stated in the case, upon the effect of the Conquest of this
Tract of Country by the French, and the re-conquest thereof by General Nicholson,
we conceive, that the said Tract not having been yielded by the Crown of En-
gland to France by any Treaty, the conquest thereof by the French created (ac-
cording to the Law of Nations) only a suspension of the property of the former
owners, and not an extinguishment of it; And that upon the re-conquest of it by Ge-
neral Nicholson, all the ancient rights, both of the Province and of private persons,
subjects of the Crown of Great Britain, did revive and were restored *jure post li-
minei*. This rule holds the more strongly in the present case, in regard it appears by
the affidavits that the Province joined their forces to those which came thither under
the command of General Nicholson in this service.

For these reasons, we are of opinion that the said Charter still remains in force, and
that the Crown hath not power to appoint a particular Governour over this part of the
Province, or to assign lands to persons desirous to settle there: Nor can the Province
grant these land to private Proprietors without the approbation of the Crown, accord-
ing to the Charter.

All of which, &c.

P. YORKE,
C. TALBOTT.

August 11th, 1731.

To all to whom these Presents shall come, Greeting.

I certify that the foregoing are true Extracts from a Copy of the Journal of the
House of Representatives of the Province of Massachusetts Bay, to which the follow-
ing attestation is affixed.

“COMMONWEALTH OF MASSACHUSETTS.

“I hereby certify that the foregoing is a true copy from a printed vo-
lume in the Secretary’s Office of this Commonwealth, being a Journal
“of the Honorable House of Representatives of His Majesty’s Province
“of Massachusetts Bay, in New England,” and “printed by Thomas
“Fleet, Printer to the Honorable House of Representatives, 1731,”

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torney and Solicitor
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sioners of Trade
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“ and that, after a careful examination of the Records and Files of this
“ Office, no other Copy of the opinion of the Attorney and Solicitor
“ General referred to and copied in the foregoing extract from the said
“ Journal, has been discovered. And I further certify that the original
“ Journal of the House of Representatives, of which the said printed
“ volume purports to be a Copy, is not in the Archives of State of this
“ Commonwealth: And to the best of my knowledge and belief, is not
“ in existence. In testimony of all which, I have caused the Seal of
“ the Commonwealth of Massachusetts, in my custody and possession,
“ to be hereunto affixed, this twenty-eighth day of June, one thousand
“ eight hundred and twenty-eight.

“ EDWARD D. BANGS,
“ *Secretary of the Commonwealth.*”

Which copy is on file in this Department; That Edward D. Bangs, whose name is subscribed to said attestation, was, at the time of subscribing the same, Secretary of the Commonwealth of Massachusetts, one of the United States of America, duly qualified, and that full faith and confidence are due to his acts as such.

In testimony whereof, I, Henry Clay, Secretary of State of the United States,
[L. s] have hereunto subscribed my name, and caused the Seal of the Department of State to be affixed.

Done at the City of Washington, the seventeenth day of December,
A. D. 1828, and of the Independence of the United States of America the fifty-third.

H. CLAY.

APPENDIX, No. XVII.

ROYAL PROCLAMATION.

SEVENTH OCTOBER.—3 GEORGE III.—1763.

Fourteenth part of Patents in the fourth year of King George the Third.

BY THE KING:—A PROCLAMATION.

GEORGE R.

Whereas we have taken into our Royal consideration the extensive and valuable acquisitions in America secured to our Crown by the late definitive Treaty of Peace concluded at Paris the tenth day of February last And being desirous that all our loving subjects as well of our Kingdoms as of our Colonies in America may avail themselves with all convenient speed of the great benefit and advantages which must accrue therefrom to their Commerce Manufactures and Navigation we have thought fit with the advice of our Privy Council to issue this our Royal Proclamation hereby to publish and declare to all our loving subjects that wee have with the advice of our said Privy Council granted our Letters Patent under our Great Seal of Great Britain to erect within the Countries and Islands ceded and confirmed to us by the said Treaty four distant and separate Governments styled and called by the names of Quebec East Florida West Florida and Grenada and limited and bounded as follow viz.

First. The *Government of Quebec* bounded on the Labrador coast by the river St. John and from thence by a line drawn from the head of that river through the Lake St. John to the South end of the Lake Nipissin from whence the said line crossing the river St. Lawrence and the Lake Champlain in forty-five degrees of North latitude passes along the High Lands which divide the Rivers that empty themselves into the said River St. Lawrence from those which fall into the Sea and also along the North Coast of the Bay des Chaleurs and the coast of the Gulph of St. Lawrence to Cape Rosieres and from thence crossing the mouth of the river St. Lawrence by the West end of the Island of Anticosti terminates at the aforesaid river of Saint Juhn.

Secondly. The *Government of East Florida* bounded to the westward by the Gulph of Mexico and the Apalachicola river to the Northward by a line drawn from that part of the said river where the Chatahoochee and Flint rivers meet to the Source of St. Marys river and by the course of the said river to the Atlantick Ocean, and to the eastward and southward by the Atlantick Ocean and the Gulph of Florida including all Islands within six leagues of the Sea Coast.

Thirdly. The *Government of West Florida* bounded to the southward by the Gulph of Mexico including all Islands within six leagues of the Coast from the river Apalachicola to Lake Pontchartrain to the westward by the said Lake the

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Appendix. Lake Maurepas and the river Mississippi to the northward by a line drawn due east from that part of the river Mississippi which lies in thirty one degrees north latitude to the river *Apalachicola* or *Chatahoochee* and to the eastward by the said river.

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Fourthly. The Government of Grenada comprehending the Island of that name together with the Grenadines and the Islands of Dominica St. Vincents and Tobago.

And to the end that the open and free Fishery of our Subjects may be extended and carried on upon the coast of Labrador and the adjacent Islands we have thought fit with the advice of our said Privy Council to put all that Coast from the river St. Johns to Hudsons Streights together with the Islands of Anticosti and Madelaine and all other smaller Islands lying upon the said Coast under the care and Inspection of our Governor of Newfoundland we have also with the advice of our Privy Council thought fit to annex the Islands of St. Johns and Cape Breton or Isle Royale with the lesser Islands adjacent thereto to our Government of Nova Scotia.

We have also with the advice of our Privy Council aforesaid annexed to our Province of Georgia all the lands lying between the rivers of Altamaha and St. Marys And whereas it will greatly contribute to the speedy settling our said new Governments that our loving subjects should be informed of our paternal care for the security of the liberties and properties of those who are and shall become inhabitants thereof We have thought fit to publish and declare by this our proclamation that we have in the Letters Patent under our Great Seal of Great Britain by which the said Governments are constituted given express power and direction to our Governors of our said Colonies respectively that so soon as the state and circumstances of the said Colonies will admit thereof they shall with the advice and consent of the members of our Council summon and call General Assemblies within the said Governments respectively in such manner and form as is used and directed in those Colonies and Provinces in America which are under our immediate Government And we have also given power to the said Governors with the consent of our said Councils and the Representatives of the people so to be summoned as aforesaid to make constitute and ordain Laws Statutes and Ordinances for the publick peace welfare and good Government of our said Colonies and of the people and inhabitants thereof as near as may be agreeable to the Laws of England and under such regulations and restrictions as are used in other Colonies and in the mean time and until such Assemblies can be called as aforesaid all persons inhabiting in or resorting to our said Colonies may confide in our Royal protection for the enjoyment of the Benefit of the laws of our Realm of England for which purpose we have given power under our Great Seal to the Governors of our said Colonies respectively to erect and constitute with the advice of our said Councils respectively Courts of Judicature and Publick Justice within our said Colonies for the hearing and determining all causes as well Criminal as Civil according to law and equity and as near as may be agreeable to the Laws of England with liberty to all persons who may think themselves aggrieved by the sentences of such Courts in all Civil cases to appeal under the usual Limitations and Restrictions to us in our Privy Council.

We have also thought fit with the advice of our Privy Council as aforesaid to give unto the Governors and Councils of our said three new Colonies upon the Continent full power and authority to settle and agree with the inhabitants of our said new Colonies or with any other persons who shall resort thereto for such Lands Tenements and Hereditaments as are now or hereafter shall be in our power to dispose of and them to grant to any such person or persons upon such terms and under such moderate quit Rents services and acknowledgments as have been appointed and settled in our other Colonies and under such other conditions as shall appear to us to be necessary and expedient for the advantage of the Grantees and the improvement and settlement of our said Colonies.

And whereas we are desirous upon all occasions to testify our Royal sense and approbation of the conduct and Bravery of the Officers and Soldiers of our Armies and to reward the same we do hereby command and empower our Governors of our said three new Colonies and all other our Governors of our several Provinces on the Continent of North America to grant without fee or reward to such reduced Officers as have served in North America during the late war and to such private Soldiers as have been or shall be disbanded in America and are actually residing there and shall personally apply for the same The following quantities of Lands subject at the expiration of ten years to the same Quit Rents as other Lands are subject to in the Province within which they are granted, as also subject to the same conditions of cultivation and improvement viz:

To every person having the Rank of a field Officer five thousand acres To every Captain three thousand acres To every Subaltern or Staff Officer two thousand acres To every Non Commissioned Officer two hundred acres To every private man fifty acres. We do likewise authorize and require the Governors and Commanders in Chief of all our said Colonies upon the Continent of North America to grant the like quantities of Land and upon the same conditions to such reduced Officers of our Navy of like Rank as served on board our ships of war in North America at the times of the reduction of Louisbourg and Quebec in the late war and who shall personally apply to our respective Governors for such Grants.

And whereas it is just and reasonable and essential to our interest and the security of our Colonies that the several Nations or Tribes of Indians with whom we are connected and who live under our protection should not be molested or disturbed in the possession of such parts of our Dominions and Territories as not having been ceded to or purchased by us are reserved to them or any of them as their Hunting Grounds we do therefore with the advice of our Privy Council declare it to be our Royal will and pleasure that no Governor or Commander in Chief in any of our Colonies of Quebec East Florida or West Florida do presume upon any pretence whatever to grant warrants of survey or pass any patents for Lands beyond the bounds of their respective Governments as described in the Commissions as also that *no Governor or Commander in Chief in any of our other Colonies or Plantations in America do presume* for the present and until our further pleasure be known *to grant warrants of survey or pass patents for any Lands beyond the heads of any of the Rivers which fall into THE ATLANTICK OCEAN from the west and north west* or upon any Lands whatever which not having been ceded to or purchased by us as aforesaid are reserved to the said Indians or any of them.

And we do further declare it to be our *Royal will and pleasure for the present as aforesaid to reserve* under our Sovereignty protection and Dominion for the use of the said Indians all the Lands and Territories not included within the limits of our said three new Governments or within the limits of the Territory granted to the Hudsons Bay Company *as also all the Lands and Territories lying to the westward of the sources of the rivers which fall into THE SEA from the west and north west* AS AFORESAID And we do hereby strictly forbid on pain of our Displeasure all our loving subjects from making any purchases or Settlements whatever or taking possession of any of the Lands above reserved without our especial Leave and Licence for that purpose first obtained.

And we do further strictly enjoin and require all persons whatever who have either wilfully or inadvertently seated themselves upon any Lands within the Countries above described or upon any other lands which not having been ceded to or purchased by us are still reserved to the said Indians as aforesaid forthwith to remove themselves from such settlements.

And whereas great frauds and abuses have been committed in the purchasing Lands of the Indians to the great prejudice of our Interests and to the great dissatisfaction of

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No. 17.

Royal Proclamation.—Oct. 7, 1763.

the said Indians In order therefore to prevent such irregularities for the future and to the end that the Indians may be convinced of our Justice and determined Resolution to remove all reasonable cause of Discontent we do with the advice of our Privy Council strictly enjoin and require that no private person do presume to make any purchase from the said Indians of any lands reserved to the said Indians within those parts of our Colonies where we have thought proper to allow settlement but that if at any time any of the said Indians should be inclined to dispose of the said Lands the same shall be purchased only for us in our name at some public Meeting or Assembly of the said Indians to be held for that purpose by the Governor or Commander in Chief of our Colonies respectively within which they shall lie within the limits of any proprietary Government they shall be purchased only for the use and in the name of such proprietaries conformable to such Directions and Instructions as we or they shall think proper to give for that purpose *and we do* by the advice of our Privy Council *declare and enjoin that the Trade with the said Indians shall be free and open to all our Subjects whatever Provided that every person who may incline to Trade with the said Indians do take out a licence for carrying on said trade from the Governor or Commander in Chief of any of our Colonies respectively where such persons shall reside* and also give security to observe such Regulations as we shall at any time think fit by ourselves or by our Commissioners to be appointed for this purpose to direct and appoint for the benefit of the said Trade and we do hereby authorize enjoin and require the Governors and Commanders in Chief of all our Colonies respectively as well those under our immediate Government as those under the Government and direction of proprietaries to grant such Licences without fee or Reward taking especial care to insert therein a condition that such Licence shall be void and the security forfeited in case the person to whom the same is granted shall refuse or neglect to observe such Regulations as we shall think proper to prescribe as aforesaid.

And we do further expressly enjoin and require all Officers whatever as well Military as those employed in the management and direction of Indian Affairs within the Territories reserved as aforesaid for the use of the said Indians to seize and apprehend all persons whatever who standing charged with Treasons Misprision of Treason Murder or other Felonies or Misdemeanors shall fly from Justice and take refuge in the said Territory and to send them under a proper guard to the Colony where the crime was committed of which they stand accused in order to take their Tryal for the same. Given at our Court at St. James's the seventh day of October one thousand seven hundred and sixty-three in the third year of our Reign.

God save the King.

This is a true copy from the original Record remaining in the Chapel of the Rolls, having been examined

JOHN KIPLING.

APPENDIX, No. XVIII.

ACT OF BRITISH PARLIAMENT

ENTITLED

An Act for making more effectual provision for the Government of the Province of Quebec, in North America."

14 GEO. III. Cap. 83. 1774.

AN ACT

FOR MAKING MORE EFFECTUAL PROVISION FOR THE GOVERNMENT OF THE PROVINCE OF QUEBEC, IN NORTH AMERICA.

Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That all the territories, islands and countries in North America, belonging to the crown of Great Britain, *bounded on the SOUTH by a line from the bay of Chaleurs, along the HIGHLANDS WHICH DIVIDE THE RIVERS THAT EMPTY THEMSELVES INTO THE RIVER ST. LAWRENCE FROM THOSE WHICH FALL INTO THE SEA, to a point in forty five degrees of northern latitude, on the eastern bank of the river Connecticut*, keeping the same latitude directly west, through the lake Champlain, until, in the same latitude, it meets the river St. Lawrence: from thence up the eastern bank of the said river to the lake Ontario: thence through the lake Ontario, and the River commonly called Niagara, and thence along by the eastern and south-eastern bank of lake Erie, following the said bank, until the same shall be intersected by the northern boundary, granted by the Charter of the Province of Pennsylvania, in case the same shall be so intersected: and from thence along the said northern and western boundaries of the said province, until the said western boundary strike the Ohio; but in case the said bank of the said lake shall not be found to be so intersected, then following the said bank until it shall arrive at that point of the said bank which shall be nearest to the north-western angle of the said Province of Pennsylvania; and thence, by a right line, to the said north-western angle of the said province; and thence along the western boundary of the said province, until it strike the river Ohio; and along the bank of the said river, westward, to the banks of the Mississippi, and northward to the southern boundary of the territory granted to the merchants adventurers of England, trading to Hudson's Bay; and, also, all such territories, islands, and countries which have, since the tenth of February, one thousand seven hundred and sixty-three, been made part of the Government of Newfoundland, be, and they are hereby during his Majesty's pleasure, annexed to, and made part and parcel of the Province of Quebec, as created and established by the said royal proclamation of the seventh of October, one thousand seven hundred and sixty three.

2. *Provided always, that nothing herein contained relative to the boundary of the Province of Quebec, shall in any wise affect the boundaries of any other colony*

Appendix.
No. 18.

British Act making additional provision for the Government of Quebec.—1774.

APPENDIX, No. XIX.

LETTER

TO

FRANCIS BERNARD, Esq. GOVERNOR OF THE MASSACHUSETTS BAY.

MARCH 11, 1763.

WHITEHALL, *March 11, 1763.*

Appendix.
No 19.

Letter from the
Board of Trade to
F. Bernard—11th
March, 1763.

We have taken into our consideration your Letter to our Secretary dated the first of December, and the several Papers which you have addressed to the Board, relative to the Grant of the Island of Mount Desart, which the General Court of Massachusetts is represented to have made to you in July 1762.

We can have no objection to your acceptance of this Grant as a testimony of the approbation and favor of that Province in whose service, and in the conduct of whose affairs, you have manifested so much zeal and capacity, nor should we have delayed our representation upon to the Crown, if the deed itself had been before us. You are sensible there are some circumstances peculiar to the situation of this Tract of Country, which make it necessary to consider both the case itself, and the manner of carrying such a Grant into execution. When we shall be actually in possession of the Grant, we will bring the matter to issue with all possible dispatch, and endeavour to decide whatever questions arise upon it, in a manner which shall be agreeable and upon grounds which shall be just to all parties concerned.

It may be proper to observe to you that the doubt conceived upon the claim of the Province of Massachusetts, is not found upon the allegation that the lands to the East of Penobscot were not in the possession of the Crown, at the time of granting the Charter, but upon the operation which the Treatys of Rislewich and Breda (by which Treaties this Tract of Country was ceded to France) should be admitted to have had upon the Charter itself.

We cannot take upon us at Present to say how far all future consideration of this question is precluded by the order of Council grounded upon the opinion of the Attorney and Solicitor General in 1731; this is a delicate point, which should be reserved till the deed shall come regularly before us, and in the mean time we cannot think it expedient to advise any conditional Grant whuterver of this Island.

We are your most obedient humble servants,

C. TOWNSHEND,
SOAME JENYNS,
ED. BACON,
ORWELL.

FRANCIS BERNARD, Esq. *Governor of the Massachusetts Bay.*

COMMONWEALTH OF MASSACHUSETTS, *Appendix.*
Secretary's Office. No. 19.

I hereby Certify, that the foregoing is a true Copy of Record as existing in this Office:

*Letter from the
Board of Trade to
F. Bernard—11th
March, 1763.*

In testimony of which, I have hereunto affixed the Seal of the said Commonwealth in my custody and possession this twentieth day of September, in the year of our Lord one thousand eight hundred and twenty-eight, and of the Independence of the United States of America the fifty-third.

[L. s.]

EDWARD D. BANGS,
Secretary of the Commonwealth.

APPENDIX, No. XX.

COPY OF A LETTER

FROM THE

AGENT OF THE PROVINCE OF MASSACHUSETTS BAY

TO

THE SECRETARY OF SAID PROVINCE.

LONDON, 9TH JUNE, 1764.

LONDON, 9th June, 1764.

SIR:

Appendix.
No. 20.

Letter from Jasper Mauduit to the Secretary of the Province of Massachusetts Bay.—9th June, 1764.

It is with pleasure that I now write to inform the General Court, that their several Grants of Lands to the East of Penobscot are in a fair way of being confirmed.

Mr. Jackson and I have sought all opportunities of bringing this business forward: but the Board of Trade has been so much engaged that they could not before attend to it. In the course of the affair the chief things insisted on were: that *the Lords, notwithstanding the opinion formerly given, are still disposed to think the right of the Province doubtful as to lands between Penobscot and St Croix* because the case was misstated to the Attorney and Solicitor General, and that, whatever be the determination on this head, yet *the Lords think, that the Province can claim no right to the Lands on the River St. Lawrence:* because the bounds of the Charter are from Nova Scotia to the River Sagadahock; so that this right cannot extend above the head of that River. That however *if the Province will pass an act empowering their Agent to cede to the Crown all pretence of right or title, they may claim under their Charter, to the lands on the River St. Lawrence, destined by the Royal Proclamation to form part of the Government of Quebec; the Crown will then waive all further dispute concerning the lands as far as St. Croix, and from the Sea Coast of the Bay of Fundy, to the bounds of the Province of Quebec:* reserving only to itself the right of approbation, as before. Mr Jackson and I were both of us of opinion that *THE NARROW TRACT OF LAND, which lies beyond the sources of all your Rivers, and is WATERED BY THOSE WHICH RUN INTO THE RIVER OF ST LAWRENCE, could not be an object of any great consequence to you, though it is absolutely necessary to the Crown, to preserve the continuity of the Government of Quebec,* and that therefore it could not be for your interest to have the confirmation of those grants retarded upon that account. It was therefore previously agreed between us; and accordingly upon my next attendance at the Board, when Lord Hillsborough asked me if I had any authority from the Province relative to the lands upon the south of the River St. Lawrence, I answered that I had no instructions relative to that particular part; but that as I was very desirous of having the Provinces Grants confirmed, I was ready to engage myself thus far for the Province: that if the Grants might be confirmed, such confirmation should not be pleaded in prejudice of *the King's rights to the Country contiguous to the River St. Lawrence, which by the Royal Proclamation makes a part of the Canadian Government.*

I hope that the General Court will not think that I have herein departed from or mistaken their interest. It appeared to me, that though the Duke of York's original patent extended to the River of Canada northward, yet that that was mentioned rather to preserve the National claim, than as intended by the Crown to be of force against itself; that a country which lies so remote, and whose rivers run still farther from you into that of St. Lawrence, could neither be settled nor retained by you: that the obtaining a confirmation of the lands you claim, upon a consideration given, renders the Crown's acknowledgment of your title so much the more solemn and irrevocable, and that the Province hereby gained a merit with the Crown at no real expense of its own. In this whole affair Mr. Jackson and I have acted in concert. But as the Grants were sent to him, he will write to you more particularly upon the subject.

I am with the highest respect,

Sir, your most obedient humble servant,

JASPER MAUDUIT.

To the GREAT AND GENERAL COURT.

COMMONWEALTH OF MASSACHUSETTS,
Secretary's Office.

I hereby certify that the foregoing is a true copy of a letter, on file in this Office, from the Agent of the Province of Massachusetts Bay to the Secretary of said Province, and which is also recorded at length in the Records of this Department.

In testimony of which, I have hereunto affixed the Seal of the said Commonwealth in my custody and possession, this twenty-sixth day of September, in the year of our Lord one thousand eight hundred and twenty-eight and of the Independence of the United States of America the fifty-third.

EDWARD D. BANGS,
Secretary of the Commonwealth.

Appendix.
No. 20.
Letter from Jasper Mauduit to the Secretary of the Province of Massachusetts Bay.—
9th June, 1764.

APPENDIX No. XXI.

COMMISSIONS

OF THE

GOVERNORS AND OTHER PERSONS

ADMINISTERING

THE GOVERNMENT OF THE PROVINCE OF QUEBEC,

VIZ:

| | |
|-----------------------------------|-------|
| James Murray, Esquire..... | 1763. |
| Guy Carleton, Esquire..... | 1767. |
| Guy Carleton, Esquire..... | 1774. |
| Frederick Haldimand, Esquire..... | 1777. |
| Sir Guy Carleton, K. B..... | 1786. |

COMMISSION TO JAMES MURRAY, ESQUIRE,

AS CAPTAIN-GENERAL AND GOVERNOR-IN-CHIEF OF QUEBEC, 21ST NOVEMBER
4 GEO. III. 1763.

First Part of Patents in the fourth year of King George the Third

JAMES MURRAY Esq. *Governor of Quebec*

Appendix.
No. 21.

Commissions of
the Governors, &c.
of the Province of
Quebec.

Jas. Murray, Esq.
21st Nov. 1763.

George the Third by the Grace of God of Great Britain France and Ireland King defender of the faith &c to our trusty and welbeloved James Murray Esquire greeting we reposing especial trust and confidence in the prudence courage and loyalty of you the said James Murray of our especial grace certain knowledge and meer motion have thought fit to constitute and appoint and by these presents *do constitute and appoint you the said James Murray to be our captain general and Governor in chief in and over our province in America bounded on the Labrador coast by the river St John and from thence by a line drawn from the head of that river through the Lake St John to the Southend of lake Nipissin from whence the said line crossing the river St Lawrence and the Lake Champlain in forty five degrees of Northern latitude passes ALONG THE HIGH LANDS which divide the rivers that empty themselves into the said river St Lawrence from those which fall into the Sea and also along the North coast of the Bay des Chaleurs and the coast of the Gulph of St Lawrence to Cape Rosieres and from thence crossing the mouth of the river St Lawrence by the West end of the Island of Anticosti Terminates at the aforesaid river of St Johns together with all the rights members and appurtenances whatsoever thereunto belonging and we do hereby require and command you to do and execute all things in due manner that shall belong to your said command and the trust we have reposed*

in you according to the several powers and directions granted or appointed you by this present commission and the instructions and authorities herewith given unto you or by such further powers instructions and authorities as shall at any time hereafter be granted or appointed you under our signet and sign Manual or by our order in our privy council and according to such reasonable laws and statutes as shall hereafter be made and agreed upon by you with the advice and consent of the council and Assembly of our said province under your government in such manner and form as is hereinafter expressed and our will and pleasure is that you the said James Murray do after the publication of these our letters patent and after the appointment of our council for our said province in such manner and form as is prescribed in the instructions which you will herewith receive in the first place take the Oaths appointed to be taken by an Act passed in the first year of the Reign of King George the first intituled [an Act for the further security of his Majesty's person and Government and the succession of the crown in the Heirs of the late princess Sophia being Protestants and for extinguishing the hopes of the pretended prince of Wales and his open and secret Abettors] as also that you make and subscribe the declaration mentioned in an Act of parliament made in the twenty fifth year of the Reign of King Charles the second intituled [an act for preventing dangers which may happen from popish Recusants] and likewise that you take the Oath usually taken by Governors in Other Colonies for the due execution of the Office and trust of our Captain General and Governor in chief in and over our said Province and for the due and impartial administration of Justice And further that you take the Oath required to be taken by Governors of the plantations to do their utmost that the several laws relating to trade and the plantations be duly observed which said Oaths and declaration our council of Our said Province or any three of the members thereof have hereby full power and authority and are required to tender and administer to you all which being duly performed you shall yourself administer to each of the members of our said council and to the lieutenant Governors of Montreal and Trois Rivieres the said Oaths mentioned in the said Act entituled [an Act for the further security of his Majestys person and government and the succession of the Crown in the Heirs of the late Princess Sophia being protestants and for extinguishing the hopes of the pretended prince of Wales and his open and secret Abettors] as also cause them to make and subscribe the aforementioned declaration and to administer unto them the usual Oaths for the due execution of their places and trusts And wee do further give and grant unto you the said James Murray full power and authority from time to time and at any time hereafter by yourself or by any other to be authorized by you in this behalf to administer and give the Oaths mentioned in the said Act for the further security of his Majestys Person and government and the succession of the crown in the Heirs of the late Princess Sophia being protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors to all and every such person and persons as you shall think fit who shall at any time pass into our said province or shall be resident or abiding there and we do hereby authorize and empower you to keep and use the public Seal which will herewith be delivered to you or shall be hereafter sent to you for sealing all things whatsoever that shall pass the great Seal of our said province And wee do hereby give and grant unto you the said James Murray full power and authority with the advice and consent of our said council to be appointed as aforesaid so soon as the situation and circumstances of Our province under your government will admit thereof and when and as need shall require to summon and call general Assemblies of the freeholders and planters within your government in such manner as you in your discretion shall judge most proper or according to such further powers instructions and authorities as shall be at any time hereafter granted or appointed you under our Signet and sign Manual or by our Order in Our privy council And Our will and pleasure is that the persons

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Commissions of the Governors, &c. of the Province of Quebec.

Jas. Murray, Esq.
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Appendix. thereupon duly elected by the Major part of the freeholders of the respective parishes
 No. 21. or preeincts and so returned shall before their sitting take the Oaths mentioned in the
 said Act intituled (an Act for the further security of his Majesty's person and govern-
 ment and the succession of the crown in the Heirs of the late Princess Sophia being
 protestants and for extinguishing the hopes of the pretended prince of Wales and his
 open and secret Abettors) as also make and subscribe the forementioned declaration
 which Oaths and declaration you shall commissionate fit persons under the public Seal
 of that our province to tender and administer unto them and until the same shall be
 so taken and subscribed no person shall be capable of sitting though elected and we do
 hereby declare that the persons so elected and qualified shall be called and deemed
 the assembly of that our province of Quebec and that you the said James Murray by
 and with the advice and consent of our said council and assembly or the Major part
 of them shall have full power and authority to make constitute and Ordain Laws Statutes
 and Ordinances for the public peace welfare and good government of our said
 province and of the people and inhabitants thereof and such others as shall resort there-
 unto and for the benefit of us our Heirs and successors which said laws statutes and
 ordinances are not to be repugnant but as near as may be agreeable to the laws and
 statutes of this our kingdom of great Britain provided that all such Laws statutes and
 ordinances of what nature or duration soever be within three months or sooner after
 the making thereof transmitted to us under Our Seal of our said province for our ap-
 probation or disallowance of the same as also duplicates thereof by the next convey-
 ance and in case any or all of the said Laws statutes and ordinances not before con-
 firmed by us shall at any time be disallowed and not approved and so signified by us
 our Heirs and successors under our or their Signet and sign manual or by Order of
 our or their privy council unto you the said James Murray or to the commander in
 chief of our said province for the time being then such and so many of the said laws
 statutes and ordinances as shall be so disallowed and not approved shall from
 thenceforth cease determine and become utterly void and of no effect any thing to the
 contrary thereof notwithstanding And to the end that nothing may be passed or done
 by our said council or assembly to the prejudice of us our Heirs and successors we
 will and ordain that you the said James Murray shall have and enjoy a negative voice
 in the making and passing of all laws statutes and ordinances as aforesaid and that you
 shall and may likewise from time to time as you shall Judge necessary adjourn pro-
 rogue or dissolve all general assemblies as aforesaid And wee do by these presents
 give and grant unto you the said James Murray full power and authority with the ad-
 vice and consent of our said council to erect constitute and establish such and so many
 Courts of Judicature and public Justice within our said province under your govern-
 ment as you and they shall think fit and necessary for the hearing and determining
 of all causes as well criminal as civil according to law and equity and for awarding
 execution thereupon with all reasonable and necessary powers authorities fees and
 privileges belonging thereunto as also to appoint and commissionate fit persons in the
 several parts of your government to administer the Oaths mentioned in the aforesaid
 Act intituled (an act for the further security of his Majestys person and government
 and the succession of the crown in the Heirs of the late Princess Sophia being protes-
 tants and for extinguishing the hopes of the pretended prince of Wales and his open
 and secret Abettors) as also to tender and administer the aforesaid declaration to such
 persons belonging to the said courts as shall be obliged to take the same And wee do
 hereby grant unto you full power and authority to constitute and appoint Judges and
 in cases requisite commissioners of oyer and terminer justices of the peace sheriffs and
 other necessary officers and ministers in our said province for the better administra-
 tion of justice and putting the laws in execution and to administer or cause to be ad-
 ministered unto them such Oath or Oaths as are usually given for the due execution

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Jas. Murray, Esq.
 21st Nov. 1763.

and performance of offices and places and for the clearing of truth in judicial causes and we do hereby give and grant unto you full power and authority where you shall see cause or shall judge any Offender or Offenders in criminal matters or for any fines or forfeitures due unto us fit objects of our mercy to pardon all such offenders and remit all such offences fines and forfeitures (treason and wilful murder only excepted) in which cases you shall likewise have power upon extraordinary occasions to grant reprieves to the offender until and to the intent our royal pleasure may be known therein And wee do by these presents give and grant unto you full power and authority to collate any person or persons to any churches chapels or other Ecclesiastical benefices within our said province as often as any of them shall happen to be void and wee do hereby give and grant unto you the said James Murray by yourself or by your captains and commanders by you to be authorized full power and authority to levy arm muster Command and employ all persons whatsoever residing within our said province and as occasion shall serve them to march embark or transport from one place to another for the resisting and withstanding of all enemies pirates and rebels both at land and Sea and to transport such forces to any of our plantations in America if necessity shall require for defence of the same against the invasion or attempts of any of our enemies and such enemies pirates and rebels if there shall be occasion to pursue and prosecute in or out of the limits of our said province and if it shall so please God them to vanquish apprehend and take and being taken according to law to put to death or keep and preserve alive at your discretion and to execute martial law in time of invasion war or other times when by law it may be executed and to do and execute all and every other thing and things which to our captain general and Governor in chief doth or of right ought to belong and we do hereby give and grant unto you full power and authority by and with the advice and consent of our said council to erect raise and build in our said province such and so many Forts platforms castles cities boroughs Towns and fortifications as you by the advice aforesaid shall judge necessary and the same or any of them to fortify and furnish with ordnance ammunition and all sorts of arms fit and necessary for the security and defence of our said province and by the advice aforesaid the same again or any of them to demolish or dismantle as may be most convenient and forasmuch as divers mutinies and disorders may happen from persons shipped and employed at Sea during the time of war and to the end that such as shall be shipped and employed at Sea during the time of war may be better governed and ordered we do hereby give and grant unto you the said James Murray full power and authority to constitute and appoint captains lieutenants masters of Ships and other commanders and officers and to grant to such captains lieutenants masters of ships and other commanders and officers commissions to execute the law Martial during the time of war according to the directions of an act passed in the twenty-second year of the reign of our late Royal Grandfather entitled [an Act for amending explaining and reducing into one act of Parliament the laws relating to the Government of his Majestys Ships vessels and forces by Sea and to use such proceedings authorities punishment corrections and executions upon any offender or Offenders who shall be mutinous seditious disorderly or any way unruly either at Sea or during the time of their abode or residence in any of the Ports Harbours or Bays in our said province as the case shall be found to require according to Martial Law and the said directions during the time of war as aforesaid provided that nothing herein contained shall be construed to the enabling you or any by your authority to hold plea or have any jurisdiction of any offence cause matter or thing committed or done upon the high Sea or within any of the havens rivers or creeks of our said province under your government by any captain commander Lieutenant Master Officer Seaman Soldier or person whatsoever who shall be in actual service and pay in or on board any of our ships of war or Other vessels acting by immediate commission or warrant from our commissioners for executing the

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21st Nov. 1763.

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Office of our high Admiral of Great Britain or from our high Admiral of great Britain for the time being under the Seal of our Admiralty but that such captain commander Lieutenant Master Officer Seaman soldier or Other person so offending shall be left to be proceeded against and tried as their Offences shall require either by commission under Our great Seal of this Kingdom as the statute of the twenty eighth of Henry the Eighth directes or by commission from our said Commissioners for executing the Office of high admiral of great Britain or from our high admiral of great Britain for the time being according to theafore mentioned Act intituled [an Act for amending explaining and reducing into one Act of Parliament the Laws relating to the Government of his Majestys Ships vessels and Forces by Sea] and not Otherwise provided nevertheless that all disorders and misdemeanors committed on shore by any captain commander lieutenant Master Officer Seaman Soldier or Other person whatsoever belonging to any of our Ships of war or Other vessels acting by immediate commission or warrant from Our commissioners for executing the Office of High Admiral of Great Britain or from our High Admiral of Great Britain for the time being under the Seal of Our Admiralty may be tried and punished according to the laws of the place when any such disorders Offences and misdemeanors shall be committed on shore notwithstanding such Offender be in Our actual service and borne in our pay on board any such Our ships of war or Other Vessels acting by immediate commission or warrant from Our commissioners for executing the Office of High Admiral of Great Britain or from our High Admiral of Great Britain for the time being as aforesaid so as he shall not receive any protection for the avoiding of justice for such Offences committed on Shore from any pretence of his being employed in our service at Sea And our further will and pleasure is that all public monies raised or which shall be raised by any Act hereafter to be made within our said province be issued out by Warrant from you by and with the advice and consent of our council as aforesaid for the support of the government and not Otherwise and we likewise give and grant unto you full power and authority by and with the advice and consent of our said council to settle and agree with the inhabitants of our said province for such lands tenements and Hereditaments as now are or hereafter shall be in our power to dispose of and them to grant to any person or persons upon such terms and under such moderate quit rents services and acknowledgments to be thereupon reserved unto us as you with the advice aforesaid shall think fit which said grants are to pass and be sealed by our public Seal of our said province and being entered upon record by such Officer or Officers as shall be appointed thereunto shall be good and effectual in law against us our Heirs and successors provided that the same be made conformable to the instructions herewith delivered to you or to such Other instructions as may hereafter be sent to you under our signet and sign Manual or by our Order in Our privy council which instructions or any articles contained therein or any such Order made in Our privy council so far as the same shall relate to the granting of lands as aforesaid shall from time to time be published in the province and entered of record in like manner as the said grants themselves are hereby directed to be entered and we do hereby give you the said James Murray full power and authority to Order and Appoint fairs Marts and Markets as also such and so many ports Harbours Bays Havens and Other places for the conveniency and security of Shipping and for the better loading and unloading of goods and merchandizes in such and so many places as by and with the advice and consent of our said council shall be thought fit and necessary and we do hereby require and command all Officers and Ministers civil and Military and all Other inhabitants of Our said province to be Obedient aiding and assisting unto you the said James Murray in the execution of this Our commission and of the powers and authorities therein contained and in case of your death or absence from our said province and government to be Obedient aiding and assisting as aforesaid to the commander in chief for the time being to whom we do therefore by these presents give and grant all and singular the powers and authorities herein granted to be by him executed and en-

joyed during our pleasure or until your arrival within Our said province and in case of your death or absence from Our said Province our will and pleasure is that our Lieutenant Governor of Montreal or Trois Rivières according to the priority of their commissions of Lieutenant governors do execute our said commission with all the powers and authorities therein mentioned as aforesaid And in case of the death or absence of our Lieutenant Governors of Montreal and Trois Rivières from our said province and there be no person within our said Province appointed by us to be Lieutenant governor or commander in chief of our said province Our will and pleasure is that the eldest councillor who shall be at the time of your death or absence residing within our said province shall take upon him the administration of the government and execute our said commission and instructions and the several powers and authorities therein contained in the same manner and to all intents and purposes as other our governor or commander in chief should or ought to do in case of your absence or until your return or in all cases until our further pleasure be known therein and we do hereby declare ordain and appoint that you the said James Murray shall and may hold execute and enjoy the Office and place of our captain general and governor in chief in and over our said province of Quebec and all the territories dependant thereon with all and singular the powers and authorities hereby granted unto you for and during our will and pleasure in witness &c witness ourself at Westminster the twenty first day of November

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Jas. Murray, Esq.
21st Nov. 1763.

By Writt of Privy Seal

This is a true Copy from the Original Record remaining in the Chapel of the Rolls. having been examined.

JOHN KIPLING.

COMMISSION TO GUY CARLETON, ESQUIRE,

AS

CAPTAIN-GENERAL AND GOVERNOR-IN-CHIEF OF QUEBEC, 12TH APRIL, 8 GEO. III. 1767.

Third part of Patents in the eighth year of King George the Third

GUY CARLETON Esquire *Governor of Quebec*

George the Third by the Grace of God of Great Britain France and Ireland King Defender of the Faith and so forth To our trusty and well beloved Guy Carleton Esquire greeting *whereas we did* by our letters patent under Our Great Seal of Great Britain bearing date at Westminster the twenty-first day of November in the fourth year of our Reign constitute and appoint James Murray Esquire to be our Captain General and Governor in Chief in and over our Province of Quebec in America bounded on the Labrador Coast by the river Saint John and from thence by a line drawn from the Head of that River through the Lake of St. John to the South end of Lake Nipissin from whence the said line crossing the river Saint Lawrence and the Lake Champlain in forty-five degrees of northern Latitude passes along the High Lands which divide the Rivers that empty themselves into the said River Saint Lawrence from those which fall into the Sea and also along the North Coast of the Bay des Chaleurs and the coast of the Gulph of Saint Lawrence to Cape Rozieres and from thence crossing the Mouth of the River Saint Lawrence by the west end of the Island of Anticosti terminates at the aforesaid river of St. John together with all the Rights Members and appurts whatsoever thereunto belonging for and during our will and pleasure as by the said recited Letters patent Relation being thereunto had may more fully and at large appear Now know you that we have revoked and determined And by these presents Do revoke and determine the said Letters patent and

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Appendix. every clause article and thing therein contained And further know you that we re-
 No. 21. posing especial trust and confidence in the prudence courage and Loyalty of you the
 said Guy Carleton of our especial Grace certain knowledge and meer motion have
 thought fit to constitute and appoint And by these presents *Do constitute and appoint*
you the said Guy Carleton to be our Captain General and Governor in Chief in
and over our Province of Quebec in America bounded on the Labrador coast by the
 River St. John and from thence by a line drawn through the head of that river through
 the Lake Saint John to the south end of Lake Nipissin *from whence the said line*
crossing the river St. Lawrence and the Lake Champlain in forty-five degrees of
northern latitude passes ALONG THE HIGH LANDS WHICH DIVIDE THE RIVERS THAT
 EMPTY THEMSELVES INTO THE SAID RIVER ST. LAWRENCE FROM THOSE WHICH FALL
 INTO THE SEA, and also along the *north* coast of the Bay des Chaleurs and the coast
 of the Gulph of St. Lawrence to Cape Rosières and from *thence crossing the mouth*
 of the river St. Lawrence by the west end of the Island of Anticosti terminates at the
 aforesaid river of St. John together with the rights members and appurts whatsoever
 thereunto belonging And wee do hereby require and command you to do and execute
 all things in due manner that shall belong to your said Command and the trust wee
 have reposed in you according to the several powers and directions granted or ap-
 pointed you by this present Commission and the instructions and authorities herewith
 given unto you or by such further powers Instructions and authorities as shall at any time
 hereafter be granted or appointed you under our Signet and Sign Mannal or by our or-
 der in our privy council and according to such reasonable Laws and Statutes as shall
 hereafter be made and agreed upon by you with the advice and consent of the Council
 and Assembly of our said Province under your Government in such manner and form
 as is hereafter expressed And Our will and pleasure is that you the said Guy Carle-
 ton do after the publication of these Our Letters patent in such manner and form as
 is prescribed in the Instructions which you will herewith receive in the first place take
 the Oaths appointed to be taken by an Act passed in the first year of the Reign of
 King George the First Intitled An act for the further Security of His Majestys per-
 son and Government and the Succession of the Crown in the heirs of the late Princess
 Sophia being Protestants and for extinguishing the hopes of the pretended Princee of
 Wales and his open and secret abettors And by an Act passed in the sixth year of our
 reign Intitled an act for altering the Oath of Abjuration and the assurance and for
 amending so much of an Act of the seventh year of her late Majesty Queen Ann In-
 titled an act for the improvement of the union of the two kingdoms as after the time
 therein limited requires the delivery of certain Lists and Copies therein mentioned to
 persons Indicted of High Treason or Misprision of Treason and also that you make
 and subscribe the Declaration mentioned in an act of parliament made in the twenty-
 fifth year of the Reign of King Charles the second Intitled an act for preventing Dan-
 gers which may happen from Popish Recusants and likewise that you take the Oath
 usually taken by Governors in other colonies for the due execution of the office and
 trust of our Captain General and Governor in Chief in and over our said province and
 for the due and impartial Administration of justice And further that you take the oath
 required to be taken by Governors of plantations to do their utmost that the several
 Laws relating to Trade and the plantations be duly observed which said Oaths and
 Declaration our Council of our said province or any three of the members thereof have
 hereby full power and authority and are hereby required to tender and administer to
 you all which being duly performed you shall yourself administer to each of the Mem-
 bers of our said Council the said Oaths mentioned in the said Acts Intitled an Act for
 the further security of His Majestys person and Government and the succession of
 the Crown in the Heirs of the late Princess Sophia being protestants and for extin-
 guishing the hopes of the pretended Princee of Wales and his open and secret abettors and
 An Act for Altering the Oath of Abjuration and the Assurance and for amending so

Commissioners of
 the Governor, &c.
 of the Province of
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much of an act of the seventh year of her late Majesty Queen Anna Intitled (An act for the improvement of the unions of the two Kingdoms as after the time therein limited requires the delivery of certain Lists and Copies therein mentioned to persons indicted of High Treason and misprision of Treason as also cause them to make and subscribe the afore-mentioned Declaration and to administer unto them the usual oaths for the due execution of their places and Trusts And wee do further give and grant unto you the said Guy Carleton full power and authority from time to time and at any time hereafter by yourself or by any other to be authorized by you in this behalf to administer and give the oaths mentioned in the Acts Intitled (An act for the further security of His Majestys person and Government and the succession of the Crown in the Heirs of the late princess Sophia being protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors and an act for altering the Oath of Abjuration and the assurance and for amending so much of an Act of the seventh year of her late Majesty Queen Anne Intitled (An act for the improvement of the Union of the two Kingdoms as after the time therein limited requires the delivery of certain Lists and Copies therein mentioned to persons Indicted of High Treason or Misprision of Treason to all and every such person and persons as you shall think fit who shall at any time or times pass into our said Province as shall be resident or abiding there And we do hereby authorize and empower you to keep and use the public Seal of our Province of Quebec for sealing all things whatsoever that shall pass the Great seal of our said province And wee do hereby give and grant unto you the said Guy Carleton full power and authority with the advice and consent of our said Council as soon as the situation and circumstances of our province under your Government will admit thereof and when and so often as need shall require to summon and call general assemblies of the Freeholders and planters within your Government as you in your discretion shall judge most proper or according to such further powers instructions and authorities as shall be at any time hereafter granted or appointed you under our signet and sign manual or by our order in our privy council And our will and pleasure is that the persons thereupon duly elected by the Major part of the Freeholders of the respective parishes or precincts and so returned shall before their sitting take the oaths mentioned in the said Acts Intitled An act for the further security of His Majestys person and Government and the Succession of the Crown in the late princess Sophia being protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors And an act for altering the oath of abjuration and the assurance and for amending so much of an act of the seventh year of her late Majesty Queen Anne Intitled an act for the improvement of the union of the two Kingdoms as after the time therein limited requires the delivery of certain Lists and Copies therein mentioned to persons Indicted of High Treason or Misprision of Treason as also make and subscribe the aforementioned Declaration which Oaths and Declaration you shall commissionate fit persons under the publick Seal of that our province to tender and administer unto them and until the same shall be so taken and subscribed no person shall be capable of sitting though elected And wee do hereby declare that the persons so elected and qualified shall be called and deemed the Assembly of that our province of Quebec and that you the said Guy Carleton by and with the advice and consent of our said Council and Assembly or the Major part of them shall have full power and authority to make constitute and ordain Laws Statutes and ordinances for the publick peace welfare and Good Government of our said Province and of the people and Inhabitants thereof and such others as shall resort thereunto and for the benefit of us our Heirs and Successors which said Laws Statutes and Ordinances are not to be repugnant but as near as may be agreeable to the Laws and Statutes of this our Kingdom of Great Britain provided that all such Laws Statutes and Ordinances of what nature or duration soever be within three months or soon-

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er after the making thereof transmitted to us under our Seal of our said province for our approbation or disallowance of the same as also Duplicates thereof by the next conveyance and in case any or all of the said Laws Statutes and Ordinances not before confirmed by us shall at any time be disallowed and not approved and so signified by us our Heirs and Successors under our or their signet and Sign Manual or by order of our or their Privy Council unto you the said Guy Carleton or to the Commander in chief of the said province for the time being then such and so many of the said Laws Statutes and Ordinances as shall be so disallowed and not approved shall from thenceforth cease determine and become utterly void and of no effect any thing to the contrary thereof notwithstanding And to the end that nothing may be passed or done by our said Council or Assembly to the prejudice of us our Heirs and Successors wee will and ordain that you the said Guy Carleton shall have and enjoy a Negative voice in the making and passing of all Laws Statutes and Ordinances as aforesaid and that you shall and may likewise from time to time as you shall judge necessary adjourn prorogue and dissolve all general Assemblies as aforesaid And wee do by these presents Give and Grant unto you the said Guy Carleton full power and authority with the advice and consent of our said Council to erect constitute and establish such and so many Courts of Judicature and public justice within our said province under your Government as you and they shall think fit and necessary for the hearing and determining of all causes as well criminal as civil according to Law and Equity and for awarding execution thereupon with all reasonable and necessary powers authorities fees and privileges belonging thereunto as also to appoint and commissionate fit persons in the several parts of your Government to administer the oaths mentioned in the aforesaid Acts Intituled An act for the further security of His Majestys person and Government and the Succession of the Crown in the Heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors And an act for altering the Oath of Abjuration and the assurance and for amending so much of an act of the seventh year of her late Majesty Queen Anne Intituled An Act for the improvement of the Union of the two Kingdoms as after the time therein limited requires the delivery of certain Lists and Copies therein mentioned to persons Indicted of High Treason or Misprision of Treason as also to tender and administer the aforesaid declaration to such persons belonging to the said Courts as shall be obliged to take the same And wee do hereby grant unto you full power and authority to constitute and appoint Judges and in cases requisite Commissioners of Oyer and Terminer Justices of the Peace Sheriffs and other necessary officers and Ministers in our said Province for the better administration of justice and putting the Laws in execution and to administer or cause to be administered unto them such Oath or Oaths as are usually given for the due execution and performance of offices and places and for the clearing of truth in Judicial causes And wee do hereby give and grant unto you full power and authority where you shall see cause or shall judge any offender or offenders in criminal matters or for any fines or forfeitures due unto us fit objects of our mercy to pardon all such offenders and remit all such offences fines and forfeitures Treason and wilful murder only excepted in which case you shall likewise have power upon extraordinary occasions to grant Reprieves to the offenders untill and to the intent our Royal pleasure may be known therein And wee do by these presents give and grant unto you full power and authority to collate any person or persons to any churches chapels or other Ecclesiastical Benefices within our said Province as often as any of them shall happen to be void And wee do hereby give and grant unto you the said Guy Carleton by yourself or by your Captains and Commanders by you to be authorized full power and authority to Levy arm Muster Command and employ all persons whatsoever residing within our said Province and as occasion shall serve them to march embark or transport from one place to another for the resisting and withstanding of all enemies

pirates and Rebels both at Land and Sea and to transport such Forces to any of our plantations in America if necessity shall require for defence of the same against the Invasion or attempts of any of our enemies and such enemies pirates and Rebels if there shall be occasion to pursue and prosecute in or out of the limits of our said Province and if it shall please God them to vanquish apprehend and take and being taken according to Law to put to death or keep and preserve alive at your discretion and to execute martial law in time of Invasion war or other times when by law it may be executed and to do and execute all and every other thing and things which to our Captain General and Governor in Chief doth or of right ought to belong And we do hereby give and grant unto you full power and authority by and with the advice and consent of our said Council to erect raise and build in our said Province such and so many forts platforms Castles Cities Boroughs Towns and Fortifications as you by the advice aforesaid shall judge necessary and the same or any of them to fortify and furnish with ordnance Ammunition and all sorts of Arms fit and necessary for the security and defence of our said Province and by the advice aforesaid the same again or any of them to demolish or dismantle as may be most convenient And for as much as divers mutinies or disorders may happen by persons shipped and employed at Sea during the time of war And to the end that such as shall be shipped and employed at Sea during the time of war may be better governed and ordered And we do hereby give and grant unto you the said Guy Carleton full power and authority to constitute and appoint Captains Lieutenants Masters of Ships and other Commanders and Officers and to grant to such Captains Lieutenants Masters of Ships and other Commanders and Officers Commissions to execute the Law Martial during the time of war according to the directions of an Act passed in the twenty-second year of the Reign of our late Royal Grandfather Intituled an act for amending explaining and reducing into one act of Parliament the Laws relating to the Government of His Majestys Ships Vessels and Forces by Sea and to use such proceedings authorities punishments corrections and executions upon any offender or offenders who shall be mutinous seditious disorderly or any way unruly either at Sea or during the time of their abode or residence in any of the ports Harbours or Bays in our said Province as the case shall be found to require according to Martial Law and the said directions during the time of War as aforesaid Provided that nothing herein contained shall be construed to the enabling you or any by your authority to hold plea or have any jurisdiction of any offence cause matter or thing committed or done upon the High Sea or within any of the Havens Rivers or Creeks of our said Province under your Government by any Captain Commander Lieutenant Master Officer Seaman Soldier or person whatsoever who shall be in actual service and pay in or on board any of our Ships of War or other vessels acting by immediate Commission or warrant from Our Commissioners for executing the office of High Admiral of Great Britain or from our High Admiral of Great Britain for the time being under the Seal of our Admiralty but that such Captain Commander Lieutenant Master Seaman Soldier or other person so offending shall be left to be proceeded against and tried as their offences shall require either by Commission under our great Seal of this Kingdom as the Statute of the Twenty Eighth of Henry the Eighth or by Commission from our said Commissioners for executing the office of High Admiral of Great Britain or from our High Admiral of Great Britain for the time being according to the afore-mentioned Act Intituled An Act for amending explaining and reducing into one Act of Parliament the Laws relating to the Government of His Majestys Ships Vessels and Forces by Sea and not otherwise provided nevertheless that all disorders and misdemeanors committed on shore by any Captain Commander Lieutenant Master Officer Seaman Soldier or other person whatsoever belonging to any of our ships of war or other vessels acting by immediate Commission or Warrant from our Commissioners for executing the office of High Admiral of Great Britain or.

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from our High Admiral of Great Britain for the time being under the Seal of our Admiralty may be tried and punished according to the Laws of the place where any such disorders offences and misdemeanors shall be committed on shore notwithstanding such offender be in our actual service and born in our pay on board any such our ships of war or other vessel acting by immediate Commission or warrant from our Commissioners for executing the office of High Admiral of Great Britain or from our High Admiral of Great Britain for the time being as aforesaid so as he shall not receive any protection for the avoiding of justice for such offences committed on shore from any pretence of his being employed in our service at sea And our further will and pleasure is that all publick moneys raised or which shall be raised hereafter by any Act to be made within our said Province be issued out by warrant from you by and with the advice and consent of our Council as aforesaid for the support of the Government and not otherwise and wee likewise give and grant unto you full power and authority by and with the advice and consent of our said Council to settle and agree with the Inhabitants of our said Province for such Lands Tenements and Hereditaments as now are or hereafter shall be in our power to dispose of and them to grant to any person or persons upon such Terms and under such moderate Quit Rents Services and acknowledgements to be thereupon reserved unto us as you with the advice aforesaid shall think fit which said Grants are to pass and be sealed by our publick seal of our said Province and being entered upon Record by such officers as shall be appointed thereunto shall be good and effectual in Law against us our heirs and successors And wee do hereby give you the said Guy Carleton full power and authority to order and appoint Fairs Markets and Marts as also such and so many Ports Harbours Bays Havens and other places for the conveniency and Security of Shipping and for the better loading and unloading of Goods and Merehandizes in such and so many places as by you with the advice and Consent of our said Couneil shall be thought fit and necessary And wee do hereby require and command all Officers and Ministers Civil and Military and all other Inhabitants of our said Province to be obedient aiding and assisting unto you the said Guy Carleton in the execution of this our Commission and of the Powers and authorities therein contained And in case of your death or absence from our said Province and Government to be obedient aiding and assisting as aforesaid to the Lieutenant Governor or Commander in Chief for the time being to whom wee do by these Presents give and grant all and singular the powers & authoritys herein granted to be by him executed and enjoyed during our pleasure or until your arrival within our said Province and if upon your death or absence out of our said Province there be no person upon the place Commissioned or appointed by us to be Lieutenant Governor or Commander in Chief of our said Province Our will and pleasure is that the Eldest Councillor who shall be at the time of your death or absence residing within our said Province shall take upon him the Administration of the Government and execute our said Commission and Instructions and the several powers and authorities therein contained in the same manner and to all intents and purposes as other our Governor or Commander in Chief should or ought to do in case of your absence until your return or in all cases until our further pleasure be known therein And wee do hereby declare ordain and appoint that you the said Guy Carleton shall and may hold exercise and enjoy the office and place of our Captain General and Governor in Chief in and over our said Province of Quebec and all the Territories Dependent thereon with all and singular the powers and authorities hereby granted unto you for and during Our will and Pleasure In Witness &c Witness our self at Westminster the twelfth day of April

By Writt of Privy Seal

This is a true Copy from the Original Record remaining in the Chapel of the Rolls, having been examined.

JOHN KIPLING.

COMMISSION TO GUY CARLETON, ESQUIRE,

AS CAPTAIN-GENERAL AND GOVERNOR-IN-CHIEF OF QUEBEC.—27TH DECEMBER,
15 Geo. III. 1774.

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Commissions of
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Guy Carleton, Esq.
27th Dec. 1774

Second Part of Patents in the Fifteenth Year of King George the Third

GUY CARLETON, ESQUIRE, *Governor of Quebec.*

George the Third by the Grace of God of Great Britain France and Ireland King Defender of the Faith &c. to our trusty and well beloved Guy Carleton Esq. Greeting Whereas wee did by our letters patent under our great seal of Great Britain bearing date at Westminster the 12th day of April in the eight year of our Reign constitute and appoint you to be our *Captain General and Governor in Chief in and over our province of Quebec in America, bounded* on the Labrador Coast by the river St John and from thence by a line drawn from the head of that river through the Lake St. John to the South East of *Lake Nipissin* from whence the said line crossing the river St. Lawrence and Lake Champlain in forty five degrees of Northern Latitude passes along the HIGHLANDS WHICH DIVIDE THE RIVERS THAT EMPTY THEMSELVES INTO THE SAID RIVER ST. LAWRENCE FROM THOSE WHICH FALL INTO THE SEA and also along the North coast of the Bay des Chaleurs and the coast of the GULF OF ST. LAWRENCE to Cape Rozieres and from thence crossing the mouth of the RIVER ST. LAWRENCE by the West end of the Island of Anticosti terminates at the aforesaid river St. John together with all the rights members and appurtenances whatsoever thereunto belonging for and during our will and pleasure as by the said recited letters patent relation being thereunto had may more fully and at large appear And Whereas wee did also by our letters patent under our Great Seal of Great Britain bearing date at Westminster the 16th day of March in the twelfth year of our Reign constitute and appoint Molineux Shuldham Esq. to be our Governor and Commander in Chief in and over our Island of Newfoundland and all the coast of Labrador from the entrance of HUDSON'S STREIGHTS to the RIVER ST. JOHN which DISCHARGES ITSELF INTO THE SEA nearly opposite the West end of the Island of Anticosti including that island with any other small Islands on the said coast of Labrador and also the Islands of Madelaine in the Gulf of St. Lawrence as also of all our forts and Garrisons erected and established in our said Islands of Newfoundland Anticosti and Madelaine or on the Coast of Labrador with the limits aforesaid for and during our will and pleasure as by the said letters patent (Relation being thereunto had) may more fully and at large appear Now Know you that We have revoked and determined And do by these presents revoke and determine the said recited letters patent granted to you the said Guy Carleton as aforesaid and every clause article and thing therein contained And we have also revoked and determined and do by these presents revoke and determine so much and such part of the said recited letters patent Granted to Molineux Shuldham Esq. as aforesaid as relates to the coast of Labrador including the Island of Anticosti with any other the said small Islands on the said coast of Labrador and every clause article and thing therein contained so far as the same relates to the said coast of Labrador and the Island herein before recited And further Know you that we reposing especial trust and confidence in the prudence courage and loyalty of you the said Guy Carleton of our especial grace certain knowledge and mere motion have thought fit to constitute and appoint you the said Guy Carleton to be our Captain General and Commander in Chief in and over our

Appendix. Province of Quebec in America comprehending all our territories Islands and countries in North America bounded on the South by a line from the Bay of Chaleurs

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ALONG THE HIGH LANDS WHICH DIVIDE THE RIVERS THAT EMPTY THEMSELVES INTO THE RIVER ST. LAWRENCE FROM THOSE WHICH FALL INTO THE SEA to a point in Forty five degrees of Northern Latitude on the Eastern bank of the river Connecticut keeping the same latitude directly west through the Lake Champlain until in the same latitude it meets with the river St. Lawrence from thence up the Eastern bank of the said river to the Lake Ontario thence through the Lake Ontario and the river commonly called Niagara and thence along by the Eastern and South Eastern bank of Lake Erie following the said bank until the same shall be intersected by the Northern boundary Granted by the Charter of the Province of Pennsylvania in case same shall be so intersected and from thence along the said Northern and Western boundaries of the said Province until the said western boundary strikes the Ohio but in case the said bank of the said Lake shall not be found to be so intersected then following the said bank until it shall arrive at that point of the said bank which shall be nearest to the North western angle of the said Province of Pennsylvania and thence by a right line to the North western angle of the said Province and thence along the western boundary of the said Province until it strikes the river Ohio and along the Bank of the said river Westward to the Banks of the Mississippi and Northward along the Eastern bank of the said river to the Southern boundary of the territory granted to the Merchants adventurers of England and trading to Hudsons Bay And also all such territories Islands and countries which have since the tenth of February one thousand seven hundred and sixty three been made part of the Government of Newfoundland as aforesaid together with all the rights members and appurtenances whatsoever thereunto belonging And we do hereby require and command you to do and execute all things in due manner that shall belong to your said command and the Trust that we have reposed in you according to the several powers and directions granted or appointed you by this present commission and the instructions and authorities herewith given unto you or by such further powers instructions and authorities as shall at any time hereafter be granted or appointed you under our signet and sign manual or by our order in our Privy Council and according to such ordinances as shall hereafter be made and agreed upon by you with the advice and consent of the Council of our said Province under your government in such manner and form as is hereinafter expressed And our will and pleasure is that you the said Guy Carleton do after the publication of these our letters patent in such manner and form as been heretofore accustomed to be used on like occasions in the first place to take the oath appointed to be taken by an act passed in the first year of the reign of King George the first intituled (An act for the further security of his Majestys person and Government and for the succession of the Crown in the heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors) And by an Act passed in the sixth year of our reign Intituled (An Act for altering the oath of abjuration and the assurance and for amending so much of an Act of the seventh year of her late Majesty Queen Anne intituled An Act for the improvement of the union of the two Kingdoms as after the time therein limited requires the delivery of certain lists and copies therein mentioned to Persons indicted of High Treason or Misprision of Treason As also that you make and subscribe the declaration mentioned in act of Parliament made in the twenty fifth year of the reign of King Charles the second Intituled (An Act for preventing dangers which may happen from Popish Recusants) And likewise that you take the oath usually taken by Governors in the Plantations for the due execution of the office and trust of our Captain General and Governor in and over our said Province and for the due and impartial administration

of Justice And further that you take the oath required to be taken by Governors of the Plantations to do their utmost that the several laws relating to Trade and the Plantations be duly observed which said oaths and declaration our Council of our said Province or any three of the members thereof have hereby full power and authority and are required to tender and administer to you All which being duly performed you shall yourself administer to each of the members of our said Council (except as hereinafter excepted) the said oaths mentioned in the said Acts Intituled (An Act for the further security of his Majestys person and Government and the succession of the Crown in the Heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors) And an Act for altering the oath of abjuration and the assurance and for amending so much of an Act of the seventh year of her late Majesty Queen Anne Intituled An Act for the improvement of the union of the two Kingdoms as after the time therein limited requires the delivery of certain lists and copies therein mentioned to persons Indicted of High Treason or Misprision of Treason as also cause them to make and subscribe the aforementioned declaration and to administer unto them an oath or oaths for the due execution of their places and Trusts And Whereas wee may find it expedient for our service that our Council of our said Province should be in part composed of such of our Canadian subjects or their descendants as remain within the same under the faith of the Treaty of Paris and who may profess the religion of the Church of Rome It is therefore our will and pleasure that in all cases where such persons shall or may be admitted either into our said Council or into any other offices they shall be exempted from all tests and from taking any other oath than that prescribed in and by an Act of Parliament passed in the fourteenth year of our reign Intituled (An Act for making more effectual provision for the Government of the Province of Quebec in North America) and also the usual oath for the due execution of their places and trusts respectively which last mentioned oath wee do hereby authorize and require you to administer to such officers and persons accordingly And we do further give and grant unto you the said Guy Carleton full power and authority from time and at any time hereafter by yourself or by any other to be authorized by you in that behalf to administer and give the oaths mentioned in the said Acts Intituled (An Act for the better security of his Majestys person and Government and the succession of the Crown in the heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors) And (An Act for altering the oath of abjuration and the assurance and for amending so much of an act of the seventh year of her late Majesty Queen Anne Intituled An Act for the improvement of the union of the two Kingdoms as after the time therein limited requires the delivery of certain lists and copies therein mentioned to persons indicted of High Treason or Misprision of Treason) or the said oath mentioned in the said act passed in the fourteenth year of our reign Intituled (An Act for making more effectual provision for the Government of the Province of Quebec in North America) to all and every such person and persons respectively as you shall think fit who shall at any time or times pass into our said province or shall be resident or abiding And wee do hereby authorize and empower you to keep and use the publick seal of our Province of Quebec for sealing all things whatsoever that shall pass the Great Seal of our said Province And wee do hereby give and grant unto you the said Guy Carleton full power and authority with the advice and consent of our said Council to make ordinances for the peace welfare and good Government of the said Province and of the people and inhabitants thereof and such others as shall resort thereunto and for the benefit of us our heirs and successors Provided always that nothing herein contained shall extend or be construed to extend to the authorizing and empowering the passing any ordinance or ordinances for laying any taxes or duties within the said

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Province such rates and Taxes only excepted as the Inhabitants of any Town or District within our said Province may be authorized by any ordinance passed by you with the advice and consent of the said Council to assess lay and apply within the said Town or District for the purpose of making roads erecting and repairing public buildings or for any other purpose respecting the local convenience and economy of such Town or District Provided also that every ordinance so to be made by you by and with the advice and consent of the said Council shall be within six months from the passing thereof transmitted to us under our seal of our said Province for our approbation or disallowance of the same as also duplicates thereof by the next conveyance and in case any or all of the said ordinances shall at any time be disallowed and not approved and so signified by us our Heirs and Successors by order in their or our privy council unto you the said Guy Carleton or to the commander in chief of our said province for the time being then such and so many of the said ordinances as shall be so disallowed and not approved shall from the promulgation of the said order in Council within the said Province cease and determine and become utterly void and of no effect Provided also that no ordinance touching Religion or by which any punishment may be inflicted greater than fine or imprisonment for three months shall be of any force or effect until the same shall have been allowed and confirmed by us our heirs and Successors and such allowance or confirmation signified to you or to the commander in chief of our said province for the time being by their or our order in their or our privy council Provided also that no ordinance shall be passed at any meeting of the council where less than a majority of the whole council is present or at any time except between the first day of January and the first day of May unless upon some urgent occasion in which case every member thereof resident at the Town of Quebec or within fifty miles thereof shall be personally summoned to attend the same And to the end that nothing may be passed or done by our said council to the prejudice of us our heirs and successors we will and ordain that you the said Guy Carleton shall have and enjoy a negative voice in the making and passing of all ordinances as aforesaid And we do by these presents give and Grant unto you the said Guy Carleton full power and authority with the advice and consent of our said council to erect constitute and establish such and so many courts of Judicature and public Justice within our said province under your government as you and they shall think fit and necessary for the hearing of all causes as well criminal as civil and for awarding execution thereupon with all reasonable and necessary powers authorities fees and privileges belonging thereunto as also to appoint and commissionate fit persons in the several parts of your government to administer the oaths mentioned in the aforesaid acts Intituled (An act for the further security of his Majestys person and government and the succession of the crown in the heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors) And (an act for altering the oath of abjuration and the assurance and for amending so much of an act of the seventh year of her late Majesty Queen Anne Intituled an Act for improving the union of the two kingdoms as after the time therein limited requires the delivery of certain lists and copies therein mentioned to persons indicted of High Treason or Misprision of Treason) and the oaths mentioned in the said Act made and passed in the fourteenth year of our reign Intituled (An Act for making more effectual provision for the government of the Province of Quebec in North America) as also to tender and administer the aforesaid declaration to such persons belonging to the said courts as shall respectively be obliged to take the same And we do hereby grant unto you full power and authority to constitute and appoint Judges and other necessary officers and ministers in our said Province for the better administration of Justice and putting the laws in execution and to administer or cause to be administered unto them an oath or oaths for the due execution and performance

of their offices and places respectively And wee do hereby give and grant unto you full power and authority where you shall see cause or shall judge any offender or offenders condemned in criminal matters or in any fines or forfeitures due unto us fit objects of our mercy to pardon all such offenders and remit all such offences fines and forfeitures Treason and wilful murder only excepted in which cases you shall likewise have power upon extraordinary occasions to grant reprieves to the offenders untill and to the intent our royal pleasure may be known therein And wee do by these presents give and grant unto you full power and authority to collate any person or persons to any Churches Chapels or other Ecclesiastical benefices with our said Province as often as any of them shall happen to be void And wee do hereby give and grant unto you Guy Carleton by yourself or by your Captains and Commanders by you to be authorized full power and authority to levy arm muster command and employ all persons whatsoever residing within our said province and as occasion shall serve them to march embark or transport from one place to another for the resisting and withstanding of all Enemies Pirates and rebels both at Land and Sea and to transport such forces to any of our plantations in America if necessity shall require for defence of the same against the invasion or attempts of any of our Enemies Pirates or Rebels and such Enemies Pirates and Rebels if there shall be occasion to pursue and prosecute in or out of the limits of our said Provinces and if it shall so please God them to vanquish apprehend and take and being taken according to law to putt to death or keep or preserve alive at your discretion and to execute martial law in time of invasion war or other times when by law it may be executed and to do and execute all and every other thing and things which to our Captain General and Governor in chief doth or of right ought to belong And wee do hereby give and grant unto you full power and authority by and with the advice and consent of our said council to erect raise and build in our said Province such and so many Forts Platforms Castles Cities Boroughs Towns and Fortifications as you by the advice aforesaid shall judge necessary and the same or any of them to fortify and furnish with ordnance Ammunition and all sorts of arms fit and necessary for the security and defence of our said Province and by the advice aforesaid the same again or any of them to demolish or dismantle as may be most convenient And for as much as divers mutinies and disorders may happen by persons shipped and employed at sea during the time of war And to the end that such as shall be shipped and employed at sea during the time of war may be better governed and ordered Wee do hereby give and grant unto you the said Guy Carleton full power and authority to constitute and appoint Captains Lieutenants masters of ships and other commanders and officers and to grant to such Captains Lieutenants Masters of ships and other commanders and officers Commissions to execute the law martial during the time of war according to the directions of an act passed in the twenty second year of the reign of our late royal Grandfather Intituled (An act for amending explaining and reducing into one Act of Parliament the laws relating to the Government of his Majestys ships vessels and forces by sea) and to use such proceedings authorities punishments corrections and executions upon any offender or offenders who shall be mutinous seditious disorderly or any way unruly either at sea or during the time of their abode or residence in any of the Ports harbours or Bays in our said Province as the case shall be found to require according to martial law and the said directions during the time of war as aforesaid Provided that nothing herein contained shall be construed to the enabling you or any by your authority to hold plea or have any jurisdiction of any offence cause matter or thing committed or done upon the high sea or within any of the havens rivers or creeks of our said province under your government by any Captain commander Lieutenant master officer seaman soldier or Person whatsoever who shall be in actual service and Pay in or on board any of our ships of war or other vessel acting by immediate commission or warrant from our

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commissions for executing the Office of our high Admiral of Great Britain or from our high Admiral of Great Britain for the time being under the seal of our admiralty but that such Captain commander Lieutenant master officer seaman soldier or other person so offending shall be left to be proceeded against and tried as their offences shall require either by commission under our great seal of this Kingdom as the statute of the Twenty eighth of Henry the eighth directs or by commission from our said commissioners for executing the office of High Admiral of Great Britain or from our High Admiral of Great Britain for the time being according to the aforementioned act intitled (An act for amending explaining and reducing into one act of Parliament the laws relating to the government of his majestys ships vessels and Forces by sea and not otherwise Provided nevertheless that all disorders and misdemeanors committed on shore by any Captain commander Lieutenant Master Officer Seaman soldier or other person whatsoever belonging to any of our ships of war or other vessels acting by immediate commission or warrant from our commissioners for executing the office of High Admiral of Great Britain or from our High Admiral of Great Britain for the time being under the seal of our Admiralty may be tryed and punished according to the law of the place where any such disorders offences and misdemeanors shall be committed on shore notwithstanding such offender be in our actual service and borne in our pay on board any such our ships of war or other vessels acting by immediate commission or warrant from our commissioners for executing the office of our High Admiral or from our High Admiral of Great Britain for the time being as aforesaid so as he shall not receive any protection for the avoiding of justice for such offences committed on shore from any pretence of his being employed in our service at sea And our further will and pleasure is that all publick monies granted and raised for the publick uses of our said province be issued out by warrant from you by and with the advice and consent of our council as aforesaid for the support of the Government and not otherwise And wee likewise give and grant unto you full power and authority by and with the advice and consent of our said council to settle and agree with the inhabitants of our said Province for such lands tenements and hereditaments as now are or hereafter shall be in our power to dispose of and them to grant to any person or persons upon such terms and under such moderate quit rents services and acknowledgments to be thereupon reserved unto us as you with the advice aforesaid shall think fit which said grants are to pass and be sealed by our publick seal of our said province and being entered upon record by such officer or officers as shall be appointed thereunto shall be good and effectual in Law against Us our Heirs and Successors And wee do hereby give you the said Guy Carleton full power and authority to order and appoint Fairs Marts and Markets as also such and so many ports Harbours Bays Havens and other places for the conveniency and security of shipping and for the better loading and unloading of goods and merchandizes in such and so many places as by you with the advice and consent of our said council shall be thought fit and necessary And wee do hereby require and command all officers and Ministers civil and military and all other inhabitants of our said Province to be obedient aiding and assisting unto you the said Guy Carleton in the execution of this our commission and of the powers and authorities therein contained and in case of your death or absence from our said Province and Government to be obedient aiding and assisting as aforesaid to the Lieutenant Governor or Commander in Chief for the time being to whom wee do therefore by these presents give and grant all and singular the powers and authorities herein granted to be by him executed and enjoyed during our Pleasure or until your arrival within our said Province And if upon your death or absence out of our said province there be no person upon the place commissioned or appointed by us to be Lieutenant Governor or commander in chief of our said Province Our will and Pleasure is that the eldest Councillor being a natural born subject of Great Britain Ireland or the Plantations

and professing the Protestant religion who shall be at the time of your death or absence residing within our said shall take upon him the administration of the Government and execute our said commission and instructions and the several powers and authorities therein contained in the same manner and to all intents and purposes as other our Governor or Commander in chief should or ought to do in case of your absence until your return or in all cases until our further pleasure be known And we do hereby declare ordain and appoint that you the said Guy Carleton shall and may hold execute and enjoy the office and place of our Captain General and Governor in Chief in and over our said Province of Quebec and all the territories dependant thereunto with all and singular the powers and authorities hereby granted unto you for and during our will and pleasure In Witness &c Witness Ourself at Westminster the twenty seventh day of December in the Fifteenth year of our reign

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By Writ of Privy Seal

This is a true copy from the original Record remaining in the Chapel of the Rolls, having been examined.

JOHN KIPLING.

COMMISSION TO FREDERICK HALDIMAND, ESQUIRE,

AS CAPTAIN-GENERAL AND GOVERNOR-IN-CHIEF OF QUEBEC, 18TH SEPTEMBER,
17 GEO: III. 1777.

Fifth part of Patents in the seventeenth year of King George the Third

FREDERICK HALDIMAND Esquire
Governor of Quebec

George the Third by the grace of God of Great Britain France and Ireland King Defender of the Faith to our trusty and welbeloved Frederick Haldimand Esquire greeting Whereas we did by our Letters Patent under our great seal of Great Britain bearing date at Westminster *the twenty-seventh day of December in the fifteenth year of our Reign constitute and appoint Guy Carleton Esquire* (now Sir Guy Carleton Knight of the Bath) *to be our Captain General and Governor in Chief in and over our Province of Quebec in America* comprehending all our territories islands and countries in North America *bounded on the south by a line from the Bay of Chaleurs* ALONG THE HIGHLANDS WHICH DIVIDE THE RIVERS THAT EMPTY THEMSELVES INTO THE RIVER ST. LAWRENCE FROM THOSE WHICH FALL INTO THE SEA *to a point in forty five degrees of northern latitude on the eastern bank of the River Connecticut keeping the said latitude directly west through the Lake Champlain until in the same latitude it meets with the River Saint Lawrence* from thence up the eastern bank of the said River to the Lake Ontario thence through the Lake Ontario and the River commonly called Niagara and thence along by the eastern and south-eastern bank of Lake Erie following the said bank until the same shall be intersected by the northern boundary granted by the charter of the Province of Pennsylvania in case the same shall be so intersected and from thence along the said northern and western boundaries of the said Province until the said western boundary strikes the Ohio but in case the said bank of the said Lake shall not be found to be so intersected then following the said bank until it shall arrive at the point of the said bank which shall be nearest to the north-western angle of the said Province of Pennsylvania and thence by a right line to the said north western angle of the said Province and thence along the western boundary of the said Province until it strikes the Ohio and along the bank

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of the said River westward to the banks of the Mississippi and northward along the eastern bank of the said River to the southern boundary of the Territory granted to the merchants adventurers of England trading to Hudsons Bay And also all such Territories Islands and Countries which have since the tenth of February one thousand seven hundred and sixty-three been made part of the Government of Newfoundland together with all the rights members and appurtenances whatsoever thereunto belonging Now know you that we have revoked and determined and do by these presents revoke and determine the said recited Letters Patent and every clause article and thing therein contained And further know you that we reposing especial trust and confidence in the prudence courage and loyalty of you the said Frederick Haldimand of our especial grace certain knowledge and meer motion have thought fit to *constitute and appoint you the said Frederick Haldimand to be our Captain General and Governor in Chief in and over our Province of Quebec in America* comprehending all our Territories Islands and Countries in North America *bounded on the south by a line from the Bay of Chaleurs ALONG THE HIGHLANDS WHICH DIVIDE THE RIVERS THAT EMPTY THEMSELVES INTO THE RIVER ST. LAWRENCE FROM THOSE WHICH FALL INTO THE SEA to a point in forty-five degrees of northern latitude on the eastern bank of the River Connecticut keeping the same latitude directly west through the Lake Champlain until in the same latitude it meets with the River St. Lawrence* from thence up to the eastern bank of the said River to the Lake Ontario thence through the Lake Ontario and the River commonly called Niagara and thence along by the eastern and south-eastern bank of Lake Erie following the said bank until the same shall be intersected by the northern boundary granted by the charter of the Province of Pennsylvania in case the same shall be so intersected and from thence along the said northern and western boundaries of the said Province until the said western boundary strikes the Ohio But in case the said bank of the said Lake shall not be found to be so intersected then following the said bank until it shall arrive at that point of the said bank which shall be nearest to the north-western angle of the said Province of Pennsylvania and thence by a right line to the said north western angle of the said Province and thence along the western boundary of the said Province until it strikes the River Ohio and along the bank of the said River westward to the banks of Mississippi and northward along the eastern bank of the said River to the southern boundary of the Territory granted to the merchants adventurers of England trading to Hudsons Bay and also all such Territories Islands and countries which have since the tenth of February one thousand seven hundred and sixty-three been made part of the Government of Newfoundland together with the rights members and appurtenances whatsoever thereunto belonging and we do hereby require and command you to do and execute all things in due manner that shall belong to your said command and the trust we have reposed in you according to the several powers and directions granted or appointed you by this present commission and the instructions and authorities herewith given unto you or by such further powers instructions and authorities as shall at any time hereafter be granted or appointed you under our signet and sign manual or by our order in our Privy Council And according to such ordinances as shall hereafter be made and agreed upon by you with the advice and consent of the Council of our said Province under your Government in such manner and form as is hereinafter expressed And our will and pleasure is that you the said Frederick Haldimand do after the publication of these our Letters Patent in such manner and form as has been accustomed to be used on like occasions in the first place take the oaths appointed to be taken by an Act passed in the first year of the Reign of King George the First intituled (An Act for the further security of his Majestys person and Government and the succession of the crown in the heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the pretend-

ed Prince of Wales and his open and seeret abettors) And by an Act passed in the sixth year of our Reign intituled (An Act for altering the oath of abjuration and the assurance and for amending so much of an Act of the seventh year of her late Majesty Queen Anne intituled An Act for the improvement of the union of the two Kingdoms as after the time therein limited requires the delivery of certain lists and copies therein mentioned to persons indicted of High Treason or Misprision of Treason) as also that you make and subscribe the declaration mentioned in an Act of Parliament made in the twenty fifth year of the Reign of King Charles the Second intituled (An Act for preventing dangers which may happen from Popish Recusants) And likewise that you take the oath usually taken by Governors in the Plantations for the due execution of the Office and Trust of our Captain General and Governor in and over our said Province and for the due and impartial administration of Justice And further that you take the oath required to be taken by Governors of the Plantations to do their utmost that the several laws relating to Trade and the Plantations be duly observed which said oaths and declaration our Council of our said Province or any three of the members thereof have hereby full power and authority and are required to tender and administer to you All which being duly performed you shall yourself administer to each of the members of our said Council (except as is hereinafter excepted) the said oaths mentioned in the said Act entitled (An Act for the further security of his Majestys person and Government and the succession of the crown in the heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and seeret abettors) And (An Act for altering the oath of abjuration and the assurance and for amending so much of an Act of the seventh year of her late Majesty Queen Anne intituled An Act for the improvement of the union of the two Kingdoms as after the time therein limited requires the delivery of certain lists and copies therein mentioned to persons indicted of High Treason or Misprision of Treason) as also cause them to make and subscribe the aforementioned declaration and to administer to them the usual oaths for the due execution of their places and trusts And whereas we may find it expedient for our service that our Council of our said Province should be in part composed of such of our Canadian subjects or their descendants as remain with the same under the faith of the Treaty of Paris and who may profess the religion of the Church of Rome It is therefore our will and pleasure that in all cases where such persons shall or may be admitted either into our said Council or into any other offices they shall be exempted from all tests and from taking any other oath than that prescribed in and by an Act of Parliament passed in the fourteenth year of our Reign intituled (An Act for making more effectual provision for the Government of the Province of Quebec in North America) And also the usual oath for the due execution of their places and trusts respectively And we do further give and grant unto you the said Frederick Haldimand full power and authority from time to time and at any time hereafter by yourself or by any other to be authorized by you in that behalf to administer and give the oaths mentioned in the said Acts intituled (An Act for the further security of his Majestys person and Government and the succession of the crown in the heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and seeret abettors) and (An Act for altering the oath of abjuration and the assurance and for amending so much of an Act of the seventh year of her Majesty Queen Anne intituled An Act for the improvement of the union of the two Kingdoms as after the time therein limited requires the delivery of certain lists and copies therein mentioned to persons indicted of High Treason or Misprision of Treason) to all and every such person and persons as you shall think fit who shall at any time or times pass into our said Province or shall be resident or abiding there And we do hereby authorize and empower you to keep and use the public seal of our Province of Quebec for sealing all things whatsoever that shall pass the great seal of our said

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Province And we do hereby give and grant unto you the said Frederick Haldimand full power and authority with the advice and consent of our said Council to make ordinances for the peace welfare and good government of the said Province and inhabitants thereof and such others as shall resort thereunto and for the benefit of us our heirs and successors Provided always that nothing contained shall extend or be construed to extend to the authorizing and empowering the passing any ordinance or ordinances for laying any taxes or duties within the said Province such rates and taxes only excepted as the inhabitants of any Town or District within our said Province may be authorized by any ordinance passed by you with the consent of our said Council to assess levy and apply within the said Town or District for the purpose of making roads erecting and repairing public buildings or for any other purpose respecting the local convenience and economy of such Town or District Provided also that every ordinance so be made by you by and with the advice and consent of the said Council shall be within six months from the passing thereof transmitted to us under our seal of our said Province for our approbation or disallowance of the same as also duplicates thereof by the next conveyance and in case any or all of the said ordinances shall at any time be disallowed and not approved and so signified by us our heirs and successors by order in their or our Privy Council unto you the said Frederick Haldimand or to the Commander in Chief of our said Province for the time being then such and so many of the said ordinances as shall be so disallowed and not approved shall from the promulgation of the said order in Council within the said Province cease determine and become utterly void and of no effect Provided also that no ordinance touching religion or by which any punishment may be inflicted greater than fine or imprisonment for three months shall be of any force or effect until the same shall have been allowed and confirmed by us our heirs and successors and such allowance or confirmation signified to you or to the Commander in Chief of our said Province for the time being by their or our order in their or our Privy Council Provided also that no ordinance shall be passed at any meeting of the Council where less than the majority of the whole Council is present or at any time except between the first day of January and the first day of May unless upon some urgent occasion in which case every member thereof resident at the Town of Quebec or within fifty miles thereof shall be personally summoned to attend the same and to the end that nothing may be passed or done by our said Council to the prejudice of us our heirs and successors we will and ordain that you the said Frederick Haldimand shall have and enjoy a negative voice in the making and passing of all ordinances as aforesaid And we do by these presents give and grant unto you the said Frederick Haldimand full power and authority with the advice and consent of our said Council to erect constitute and establish such and so many Courts of Judicature and publick justice within our said Province under your government as you and they shall think fit and necessary for the hearing and determining of all causes as well criminal as civil and for awarding execution thereupon with all reasonable and necessary powers authorities fees and privileges belonging thereunto as also to appoint and commissionate fit persons in the several parts of your Government to administer the oaths mentioned in the aforesaid Acts entituled (An Act for the further security of his Majestys person and Government and the succession of the crown in the heirs of the late Princess Sophia being Protestants and for extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors) and (An Act for altering the oath of abjuration and the assurance and for amending so much of an Act of the seventh year of her late Majesty Queen Anne intituled An Act for the improvement of the union of the two Kingdoms as after the time therein limited requires the delivery of certain lists and copies therein mentioned to persons indicted of High Treason or Misprision of Treason) as also to tender and administer the aforesaid declaration to such persons belonging to the said Courts as shall be obliged to take the same And we do hereby grant unto you full power and authority to constitute and appoint Judges and in cases

requisite Commissioners of Oyer and Terminer Justices of the Peace Sheriffs and other necessary officers and ministers in our said Province for the better administration of justice and putting the laws in execution and to administer or cause to be administered unto them such oath or oaths as are usually given for the due execution and performance of offices and places and for the clearing of truth in judicial causes And wee do hereby give and grant unto you full power and authority where you shall see cause or shall judge any offender or offenders in criminal matters or for any fines or forfeitures due unto us fit objects of our mercy to pardon all such offenders and remit all such offences fines and forfeitures treason and wilful murder only excepted in which cases you shall likewise have power upon extraordinary occasions to grant reprieves to the offenders until and to the intent our Royal pleasure may be known therein And we do by these presents give and grant unto you full power and authority to collate any person or persons to any Churches Chapels or other Ecclesiastical Benefices within our said Province as often as any of them shall happen to be void And we do hereby give and grant unto you the said Frederick Haldimand by yourself or by your Captains and Commanders by you to be authorized full power and authority to levy arm muster command and employ all persons whatsoever residing within our said Province and as occasion shall serve them to march embark or transport them from one place to another for the resisting and withstanding of all enemies pirates and rebels both at land and sea And to transport such forces to any of our Plantations in America if necessity shall require for defence of the same against the invasion or attempts of any of our enemies and such enemies pirates and rebels if there shall be occasion to pursue and prosecute in or out of the limits of our said Province And if it shall so please God them to vanquish apprehend and take and being taken according to law to put to Death or keep and preserve them alive at your discretion and to execute Martial Law in time of invasion war or other times when by law it may be executed and to do and execute all and every other thing and things which to our Captain General and Governor in Chief doth or of right ought to belong And we do hereby give and grant unto you full power and authority by and with the advice and consent of our said Council to erect raise and build in our Province such and so many Forts Platforms Castles Cities Boroughs Towns and Fortifications as you by the advice aforesaid shall judge necessary and the same or any of them to fortify and furnish with ordnance ammunition and all sorts of arms fit and necessary for the security and defence of our said Province And by the advice aforesaid the same again or any of them to demolish or dismantl: as may be most convenient And for as much as divers mutinies and disorders may happen by persons shipped and employed at sea during the time of war and to the end that such as shall be so shipped and employed at Sea during the time of war may be better governed and ordered wee do hereby give and grant unto you the said Frederick Haldimand full power and authority to constitute and appoint Captains Lieutenants Masters of Ships and other Commanders and Officers and to grant to such Captains Lieutenants Masters of Ships and other Commanders and Officers commissions to execute the Law Martial during the time of war according to the directions of an Act passed in the twenty-second year of the Reign of our late Royal Grandfather intituled (An Act for amending explaining and reducing into one Act of Parliament the laws relating to the government of His Majestys Ships Vessels and Forces by Sea) And to use such proceedings authorities punishments corrections and executions upon any offender or offenders who shall be mutinous seditious disorderly or any way unruly either at sea or during the time of their abode or residence in any of the Ports Harbours or Bays in our said Province as the case shall be found to require according to Martial Law and the said directions during the time of war as aforesaid Provided that nothing herein contained shall be construed to the enabling you or any by your command to hold plea or have any jurisdiction of any offence cause matter or thing committed or done upon the High Sea or within any

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of the Havens Rivers or Creeks of our said Province under your government by any Captain Commander Lieutenant Master Officer Seaman Soldier or person whatsoever who shall be in our actual service and pay in or on board any of our ships of war or other vessels acting by immediate commission or warrant from our Commissioners for executing the office of our High Admiral of Great Britain or from our High Admiral of Great Britain for the time being under the seal of our Admiralty but that such Captain Commander Lieutenant Master Officer Seaman Soldier or other person so offending shall be left to be proceeded against and tried as their offences shall require either by commission under our Great Seal of this Kingdom as the statute of the twenty-eighth of Henry the Eighth directs or by commission from our said Commissioners for executing the office of High Admiral of Great Britain or from our High Admiral of Great Britain for the time being according to the before mentioned Act intituled (An Act for amending explaining and reducing into one Act of Parliament the laws relating to the government of His Majestys Ships Vessels and Forces by Sea) and not otherwise Provided nevertheless that all disorders and misdemeanors committed on shore by any Captain Commander Lieutenant Master Officer Seaman Soldier or other person whatsoever belonging to any of our ships of war or other vessels acting by immediate commission or warrant from our Commissioners for executing the office of High Admiral of Great Britain or from our High Admiral of Great Britain for the time being under the seal of our Admiralty may be tried and punished according to the laws of the place where such disorders offences and misdemeanors shall be committed on shore Notwithstanding such offender be in our actual service and borne in our pay on board any such our ships of war or other vessels acting by immediate commission or warrant from our Commissioners for executing the office of High Admiral of Great Britain or from our High Admiral of Great Britain for the time being as aforesaid so as he shall not receive any protection for the avoiding of justice for such offences committed on shore from any pretence of his being employed in our service at sea And our further will and pleasure is that all public monies granted and raised for the public uses of our said Province be issued out by warrant from you by and with the advice and consent of our Council as aforesaid for the support of the Government and not otherwise And we do likewise give and grant unto you full power and authority by and with the advice and consent of our said Council to settle and agree with the inhabitants of our said Province for such lands tenements and hereditaments as now are or hereafter shall be in our power to dispose of and them to grant to any person or persons upon such terms and under such moderate quit rents services and acknowledgements to be thereupon reserved unto us as you with the advice aforesaid shall think fit which said grants are to pass and be sealed by our public seal of our said Province and being entered upon record by such officer or officers as shall be appointed thereunto shall be good and effectual in law against us our heirs and successors And we do hereby give you the said Frederick Haldimand full power and authority to order and appoint fairs marts and markets as also such and so many ports harbours bays havens and other places for the conveniency and security of shipping and for the better loading and unloading of goods and merchandizes in such and so many places as by you with the advice and consent of our said Council shall be thought fit and necessary And we do hereby require and command all officers and ministers civil and military and all other inhabitants of our said Province to be obedient aiding and assisting unto you the said Frederick Haldimand in the execution of this our commission and of the powers and authorities therein contained And in case of your death or absence from our said Province and Government to be obedient aiding and assisting as aforesaid to the Lieutenant Governor or Commander in Chief for the time being to whom we do therefore by these presents give and grant all and singular the powers and authorities herein granted to be by him executed and enjoyed during our pleasure or until your arrival within our said Province And if upon your death or absence out of our said Province

there be no person upon the place commissioned or appointed by us to be Lieutenant Governor or Commander in Chief of our said Province our will and pleasure is that the eldest Councillor being a natural born subject of Great Britain Ireland or the Plantations and professing the Protestant religion who shall be at the time of your death or absence residing within our said Province shall take upon him the administration of the Government and execute our said commission and instructions and the several powers and authorities therein contained in the same manner and to all intents and purposes as other our Governor or Commander in Chief should or ought to do in case of your absence until your return Or in all cases until our further pleasure be known herein And we do hereby declare ordain and appoint that you the said Frederick Haldimand shall and may hold execute and enjoy the office and place of our Captain General and Governor in Chief in and over our said Province of Quebec and all the Territories dependant thereupon and all and singular the powers and authorities hereby granted unto you for and during our will and pleasure In witness &c Witness ourself at Westminster this eighteenth day of September

Appendix.
No. 21.

Commissions of
the Governors of
the Province of
Quebec.

Frederick Haldimand, Esq.
18th Sept. 1777.

By Writt of Privy Seal

This is a true copy from the original record remaining in the Chapel of the Rolls, having been examined.

JOHN KIPLING.

COMMISSION TO SIR GUY CARLETON, K. B.

AS CAPTAIN-GENERAL AND GOVERNOR-IN-CHIEF OF QUEBEC, 22D APRIL,
26 GEO: III. 1786.

Fifth part of patents in the twenty Sixth year of King George the Third

SIR GUY CARLETON K. B.

Governor of Quebec

George the Third by the grace of God of Great Britain France and Ireland King defender of the faith and so forth to our trusty and welbeloved Sir Guy Carleton knight of the most honorable order of the Bath greeting whereas wee did by our letters patent under our great Seal of Great Britain bearing date at Westminster *the eighteenth day of September in the seventeenth year of our Reign constitute and appoint Frederick Haldimand Esquire* now Sir Frederick Haldimand Knight of the most honorable of the Bath *to be our captain general and governor in chief in and over our province of Quebec in America then bounded as in our said recited letters patent was mentioned and expressed* now know ye that wee have revoked and determined and by these presents do revoke and determine the said recited letters patent and every clause article and thing therein contained and further know ye that we reposing especial trust and confidence in the prudence courage and loyalty of you the said Sir Guy Carleton of our especial grace certain knowledge and mere motion have thought fit to *appoint you the said Sir Guy Carleton to be our captain general and governor in chief in and over our province of Quebec in America comprehending all our territories Islands and countries in North America bounded on the South by a line from the Bay of Chaleurs* **ALONG THE HIGH LANDS WHICH DIVIDE THE RIVERS THAT EMPTY THEMSELVES INTO THE RIVER SAINT LAWRENCE FROM THOSE WHICH FALL INTO THE ATLANTIC OCEAN to the North westernmost head of Connecticut river thence down along the middle of that river to the forty fifth degree of North Latitude from thence by a line due west on said latitude until it strikes the river Iroquois or**

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22d April, 1786.

Appendix. Cataraguy thence along the middle of said river into the lake Ontario through the middle of said lake until it strikes the communication by water between that Lake and Lake Erie through the middle of said lake until it arrives at the water communication between that lake and lake Huron thence along the middle of said water communication into the lake Huron thence through the middle of said lake to the water communication between that Lake and Lake Superior thence through lake Superior Northward of the Isles Royal and Phillipaux to the Long Lake thence through the middle of said Long Lake and the water communication between it and the Lake of the Woods to the said Lake of the Woods thence through the said lake to the most north western point thereof and from thence on a due west course to the river Mississippi and Northward to the Southern boundary of the Territory granted to the Merchants adventurers of England trading to Hudsons Bay and also all such territories Islands and countries which have since the tenth of February one thousand seven hundred and sixty three been made part of the Government of Newfoundland together with all the rights members and appurtenances whatsoever thereunto belonging and wee do hereby require and command you to do and execute all things in due manner that shall belong to your said command and the trust we have reposed in you according to the several powers and directions granted or appointed you by this present commission and the instructions and authorities herewith given unto you or by such further instructions and authorities as shall at any time hereafter be granted or appointed you under our Signet or sign manual or by our order in our privy council and according to such ordinances as shall hereafter be made and agreed upon by you with the advice and consent of the council of our said province under your government in such manner and form as is herein after expressed and our will and pleasure is that you the said Sir Guy Carleton do after the publication of these our letters patent in such manner and form as has been accustomed to be used on like occasions in the first place take the Oaths appointed to be taken by an act passed in the first year of King George the first intituled [an act for the further security of his Majestys person and Government and the succession of the crown in the Heirs of the late princess Sophia being protestants and for extinguishing the hopes of the pretended prince of Wales and his open and secret abettors] and by an act passed in the sixth year of our reign intituled (an act for altering the Oath of abjuration and the assurance and for amending so much of an act of the seventh year of her late Majesty Queen Ann intituled (an act for the improvement of the union of the two Kingdoms as after the time therein limited requires the delivery of certain lists and copies therein mentioned to persons indicted of high treason or misprision of treason) as also that you make and subscribe the declaration mentioned in an act of parliament made in the twenty fifth year of the reign of King Charles the Second intituled (an act for preventing dangers which may happen from popish recusants) and likewise that you take the Oath usually taken by Governors in the plantations for the due execution of the office and trust of our Captain general and Governor in chief in and over our said province and for the due and impartial administration of Justice and further that you take the Oath required to be taken by Governors of the plantations to do their utmost that the several laws relating to trade and the plantations be duly observed which said Oaths and declaration our council of our said province or any three of the members thereof have hereby full power and authority and are required to tender and administer to you all which being duly performed you shall yourself administer to each of the members of our said council (except as is hereinafter excepted) the said Oaths mentioned in the said acts intituled (an act for the further security of his Majestys person and government and the succession of the crown in the Heirs of the late princess Sophia being protestants and for extinguishing the hopes of the pretended prince of Wales and his open and secret abettors) and (an act for altering the Oath of abjuration and the as-

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surance and for amending so much of an act of the seventh year of her late Majesty Queen Ann intituled an act for the improvement of the union of the two Kingdoms as after the time therein limited required the delivery of certain lists and copies therein mentioned to persons indicted of high Treason or misprision of treason) as also cause them to make and subscribe the aforementioned declaration and to administer unto them the usual Oaths for the due execution of their places and trusts and whereas wee may find it expedient for our service that our council of our said province should be in part composed of such of our Canadian subjects or their descendants as remain within the same under the faith of the treaty of Paris and who may profess the religion of the church of Rome it is therefore our will and pleasure that in all cases where such persons shall or may be admitted either in our said council or into any other offices they shall be exempted from all tests and from taking any other oath than that prescribed in and by an act of parliament passed in the fourteenth year of our reign intituled (an act for making more effectual provision for the government of the province of Quebec in North America) and also the usual oath for the due execution of their places and trusts respectively and we do further give and grant unto you the said Sir Guy Carleton full power and authority from time to time and at all times hereafter by yourself or by any other to be authorized by you in that behalf to administer and give the oaths mentioned in the aforesaid acts to all and every such person and persons as you shall think fit who shall at any time or times pass into our said province or shall be resident or abiding there and wee do hereby authorize and empower you to keep and use the public Seal of our province of Quebec for Sealing all things whatsoever that shall pass the great Seal of our said province and we do hereby give and grant unto you the said Sir Guy Carleton full power and authority with the advice and consent of our said council to make ordinances for the peace welfare and good government of the said province and of the people and inhabitants thereof and such others as shall resort thereunto and for the benefit of us our Heirs and successors provided always that nothing herein contained shall extend or be construed to extend to the authorizing and empowering the passing of any ordinance or ordinances for laying any taxes or duties within the said province such rates and taxes only excepted as the inhabitants of any Town or district within our said province may be authorized by any ordinance passed by you with the advice and consent of the said council to assess Levy and apply within the said Town or district within our said province Roads erecting and repairing public buildings or for any other purpose respecting the local convenience and economy of such Town or district provided also that every ordinance so to be made by you by and with the advice and consent of the said council shall be within six months from the passing thereof transmitted to us under the Seal of our said province for our approbation or disallowance of the same as also duplicates thereof by the next conveyance and in case any or all of the said ordinances shall at any time be disallowed and not approved and so signified by us our Heirs and successors by order in their or our or their privy council unto you the said Sir Guy Carleton or to the commander in chief of our said province for the time being then such and so many of the said ordinances as shall be so disallowed and not approved shall from the promulgation of the said order in council within the said province cease determine and become utterly void and of none effect provided also that no ordinance touching religion or by which any punishment may be inflicted greater than fine or imprisonment for three months shall be of any force or effect until the same shall have been allowed and confirmed by us our Heirs and Successors and such allowance or confirmation signified to you or to the commander in chief of our said province for the time being by their or our order in their or our privy council provided also that no ordinance shall be passed at any meeting of the council where less than a majority of the whole council is present or at any time except between the first day of January and the first day of May unless upon some urgent occasion in which case every member thereof resident at the

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Sir Guy Carleton
22d April, 1796

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the Province of
Quebec.

Sir Guy Carleton,
23d April, 1756.

Town of Quebec or within fifty miles thereof shall be personally summoned to attend the same and to the end that nothing may be passed or done by our said council to the prejudice of us our Heirs and Successors we will and ordain that you the said Sir Guy Carleton shall have and enjoy a negative voice in making and passing all ordinances as aforesaid and we do by these presents give and grant unto you the said Sir Guy Carleton full power and authority with the advice and consent of our said council to erect constitute and establish such and so many courts of Judicature and public justice within our said province under your government as you and they shall think fit and necessary for the hearing and determining all causes as well criminal as civil and for awarding execution thereupon with all reasonable and necessary powers authorities fees and privileges belonging thereunto as also to appoint and commissionate fit persons to the several parts of your government to administer the oaths mentioned in the above recited acts as also to tender and administer the aforesaid declaration to such persons belonging to the said courts as shall be obliged to take the same and we do hereby grant unto you full power and authority to constitute and appoint Judges and in cases requisite commissioners of oyer and terminer justices of the peace sheriffs and other necessary officers and ministers in our said province for the better administration of Justice and putting the laws in execution and to administer or cause to be administered unto them such oath or oaths as are usually given for the due execution and performance of offices and places and for the clearing of truth in judicial causes and we do hereby give and grant unto you full power and authority where you shall see cause or shall judge any offender or offenders in criminal matters or for any fines or forfeitures due unto us fit objects of our mercy to pardon all such offenders and remit all such Offences Fines and Forfeitures treason and wilful murder only excepted in which cases you shall likewise have power upon extraordinary occasions to grant reprieves to the offenders until and to the intent our royal pleasure may be known therein and we do by these presents give and grant unto you full power and authority to collate any person or persons to any churches chapels or other Ecclesiastical benefices within our said province as often as any of them shall happen to be void and we do hereby give and grant unto you the said Sir Guy Carleton by yourself or by your captains and commanders by you to be authorized full power and authority to levy arm muster command and employ all persons whatsoever residing within our said province and as occasion shall serve them to march embark or transport from one place to another for the resisting and withstanding of all enemies pirates and rebels both at land and Sea and to transport such forces to any of our plantations in America if necessity shall require for the defence of the same against the invasion or attempts of any of our enemies and such enemies pirates and rebels if there shall be occasion to pursue and prosecute in or out of the limits of our said province and (if it shall so please God) them to vanquish apprehend and take and being taken according to law put to death or keep and preserve alive at your discretion and to execute martial Law in time of invasion war or at other times when by law it may be executed and to do and execute all and every other thing and things which to our captain general and Governor in chief doth or of right ought to belong and we do hereby give and grant unto you full power and authority by and with the advice and consent of our said council to erect raise and build in our said province such and so many Forts platforms castles cities boroughs Towns and Fortifications as you by the advice aforesaid shall judge necessary and the same or any part of them to fortify and furnish with ordnance ammunition and all sorts of arms fit and necessary for the security and defence of our said province and by the advice aforesaid the same again or any of them to demolish or dismantle as may be most convenient and for as much as divers mutinies and disorders may happen by persons shipped and employed at Sea during the time of war and to the end that such as shall be shipped and employed at sea during the time of war may be better governed and ordered we do hereby give and grant unto you the said Sir Guy Carleton to constitute and

appoint captains Lieutenants Masters of ships and other commanders and officers and to grant to such captains lieutenants masters of ships and other commanders and officers commissions to execute the law martial during the time of war according to the directions of an act passed in the twenty second year of the reign of our late royal grandfather intituled (an act for amending explaining and reducing into one act of parliament the laws relating to the government of his Majestys ships vessels and forces by Sea) and to use such proceedings authorities punishments corrections and executions upon any offender or offenders who shall be mutinous seditious disorderly or any way unruly at Sea or during the time of their abode or residence in any of the ports Harbours or Bays in our said province as the case shall be found to require according to law martial and the said directions during the time of war as aforesaid provided that nothing herein contained shall be construed to the enabling you or any by your authority to hold plea or have any Jurisdiction of any offence cause matter or thing committed or done upon the high Sea or within any of the Havens rivers or creeks of our said province under your government by any Captain commander Lieutenant Master officer Seaman Soldier or person whatsoever who shall be in actual service and pay in or on board any of our ships of war or other vessels acting by immediate commission or warrant from our commissioners for executing the office of our high admiral of Great Britain or from our High Admiral of Great Britain for the time being under the Seal of our admiralty but that such captain commander Lieutenant master officer Seaman Soldier or other person so offending shall be left to be proceeded against and tried as their offences shall require either by commission under our great Seal of this kingdom as by the statute of the twenty eighth of Henry the eighth directs or by commission from our said commissioners for executing the office of high admiral of Great Britain or from our High Admiral of Great Britain for the time being according to the afore mentioned act intituled (act for amending explaining and reducing into one act of parliament the laws relating to the government of his Majestys ships vessels and forces by Sea) and not otherwise provided nevertheless that all disorders and misdemeanors committed on shore by any captain commander Lieutenant Master officer Seaman Soldier or other person whatsoever belonging to any of our Ships of war or other vessels acting by immediate commission or warrant from our commissioners for executing the Office of high admiral of Great Britain for the time being under the Seal of our admiralty may be tried and punished according to the laws of the place where any such disorders offences and misdemeanors shall be committed on shore notwithstanding such offender be in our actual service and borne in our pay on board any such our ships of war or other vessels acting by immediate commission or warrant from our commissioners for executing the office of High Admiral of Great Britain or from our High Admiral of Great Britain for the time being as aforesaid so as he shall not receive any protection for the avoiding of Justice for such offences committed on shore from any pretence of his being employed in our service at Sea and our further will and pleasure is that all public monies granted and raised for the public uses of our said province be issued out by warrant from you and with the advice and consent of our council as aforesaid for the support of the government and not otherwise and wee likewise give and grant unto you full power and authority by and with the advice and consent of our said council to settle and agree with the inhabitants of the said province for such lands tenements and Hereditaments as now are or hereafter shall be in our power to dispose of and them to grant to any person or persons upon such terms and under such moderate Quit rents services and acknowledgements to be thereupon reserved unto us as you with the advice aforesaid shall think fit and as you shall be directed by our instructions in that respect which said grants are to pass and be sealed with our public Seal of our Said province and being entered upon record by such officer or officers as shall be appointed thereunto shall be good and effectual in law against us our Heirs and successors provided nevertheless that no grants or leases of any of the trading posts in our

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Commissions of the Governors of the Province of Quebec.

Sir Guy Carleton,
22d April, 1766.

Appendix. said province shall under colour of this authority be rude to any person or persons
 No 21. whatsoever until our pleasure therein shall be signified to you and wee do hereby give
 Commission of you the said Sir Guy Carleton full power and authority to order and appoint Fairs
 the Province of the Province of Marts and Markets as also such and so many ports Harbours Bays Havens and other
 (2) places for the conveniency and security of shipping and for the better loading and un-
 loading of goods and Merchandize in such and so many ports Harbours Bays Havens
 and other places for shall be thought fit and necessary and wee do hereby require
 and command all officers civil and Military and all other inhabitants of our said province
 to be obedient aiding and assisting unto you the said Sir Guy Carleton in the execution
 of this our commission and of the powers and authorities therein and in case
 of your death or absence from our said province and government to be obedient aiding
 and assisting as aforesaid to the Lieutenant governor or commander in chief for the
 time being to whom wee do therefore by these presents give and grant all and singular
 the powers and authorities herein granted to be by him executed and enjoyed during
 our pleasure or until your arrival within our said province and if upon your death or
 absence out of our said province there be no person upon the place commissioned or
 appointed by us to be Lieutenant governor or commander in chief of our said province
 our will and pleasure is that the eldest councillor being a natural born subject of great
 Britain Ireland or our colonies and plantations and professing the protestant religion
 who shall be at the time of your death or absence residing within our said province
 shall take upon him the administration of the government and execute our said commission
 and instructions and the several powers and authorities therein contained in the same
 manner and to all intents and purposes as either our governor or commander in chief
 should or ought to do in case of your absence until your return or in all cases
 until our further pleasure be known therein nevertheless as it may happen in case of
 the death or absence or removal of our Lieutenant governor that the succession of the
 eldest councillor to the administration of the government may not be for the good of
 our service and the welfare of our said province wee do hereby authorize and empower
 you in case of such death absence or removal if it shall appear to you that it would not
 be expedient for the eldest councillor in succession to administer the government to
 nominate and appoint by a commission under the great Seal of our province of Quebec
 you being yourself at the time of such appointment personally resident in the said
 province any member of our council for our said province whom you shall judge the
 most proper and fitting to be our Lieutenant governor thereof until our pleasure there-
 upon shall be known and you are to transmit to us by the first opportunity through one
 of our principal secretaries of State your reasons for such appointment and wee do hereby
 declare ordain and appoint that you the said Sir Guy Carleton shall and may hold
 execute and enjoy the office and place of our captain general and governor in chief in
 and over our said province of Quebec and all the territories dependant thereupon with
 all and singular the powers and authorities hereby granted unto you for and during our
 will and pleasure In witness &c. Witness ourself at Westminster the twenty second day
 of April in the twenty sixth year of our Reign

By Writ of privy Seal

This is a true copy from the Original Record remaining in the Chapel of the Rolls,
 having been examined.

JOHN KIPLING.

APPENDIX, No. XXII.

EXTRACT FROM COUNCIL MINUTES

OF APRIL 10, 1765,

WITH THE KING'S ORDER IN COUNCIL, JULY 20, 1764.

At a Council held at Fort George, in the City of New York, on Wednesday, the tenth day of April, 1765,

Present

| | |
|------------------------------|------------------------|
| The Hon Cadwallar Colden Esq | Lieutenant Governor &c |
| Mr Horsmanden | Mr De Lancey |
| Mr Watts | Mr Reade |
| Mr Walton | Mr Morris |

Appendix.
No. 22.
Order in Council
of 20th July, 1764

His Honour the Lieutenant Governor laid before the board His Majesty's Order in Council dated the 20th July 1764 fixing the River Connecticut as the boundary line between this Province and the Province of New Hampshire which was read and ordered to be entered on the minutes and is as follows

At the Court at St James's the 20th day of July 1764

Present

| | |
|-----------------------------------|----------------------|
| The King's Most Excellent Majesty | |
| Lord Stewart | Earl of Hillsborough |
| Earl of Sandwich | Mr Vice Chamberlain |
| Earl of Halifax | Gilbert Elliot Esq |
| Earl of Powis | James Oswald Esq |
| Earl of Harcourt | |

Whereas there was this day read at the board a Report made by the Right Honourable the Lords of the Committee of Council for Plantation Affairs dated the 17th of this instant upon considering a representation from the Lords Commissioners for trade and plantations relative to the disputes that have some years subsisted between the Provinces of New Hampshire and New York concerning the boundary line between those Provinces *His Majesty taking the same into consideration was pleased with the advice of his Privy Council to approve of what is therein proposed and doth accordingly hereby order and declare the Western Banks of the River Connecticut from where it enters the Province of the Massachusetts Bay as far North as the forty fifth degree of Northern Latitude to be the boundary line between the said two Provinces of New Hampshire and New York*—Whereof the respective Governors and Commanders in Chief of His Majesty's said Provinces of New Hampshire and New York for the time being and all others whom it may concern are to take notice of His Majesty's pleasure hereby signified and govern themselves accordingly.

WM. BLAIR.

It is ordered by his Honour the Lieutenant Governor with the advice of the Council that a Proclamation issue publishing His Majesty's said Order in Council to the end that all His Majesty's Subjects within this Province may conform thereto and govern themselves accordingly.

Appendix.
No. 22.

STATE OF NEW YORK,
Secretary's Office.

Order in Council
of 20th July, 1764.

I certify the preceding to be a true Extract from the Council Minutes of the late Colony of New York.

In testimony whereof, I have hereunto affixed the Seal of this Office, at the
[L. s.] City of Albany, the 30th day of September, 1828.

ARCH'D CAMPBELL,
Dep. Secretary.

*By Nathaniel Pitcher, Lieutenant Governor of the State of New York, acting
as Governor of the said State:*

It is hereby certified that the preceding Copy is attested in due form, and by the proper officer.

In testimony whereof, I have hereunto affixed the Great Seal of this State.
[L. s.] Witness my hand, at the City of Albany, the 30th day of September, 1828.

NATHANIEL PITCHER.

APPENDIX, No. XXIII.

DEPOSITIONS

OF

JOHN ADAMS AND JOHN JAY,

AND

DR. FRANKLIN'S AND JOHN ADAMS' LETTERS.

From General Appendix to the Proceedings under the Fifth Article of the Treaty of Ghent.

JOHN ADAMS' DEPOSITION.

“ Mitchell's map was the only map or plan which was used by the Commissioners at their public conferences, though other maps were occasionally consulted by the American Commissioners at their lodgings; the British Commissioners at first claimed to Piscataqua river, then to Kennebeck, then to Penobscot, and at length agreed to St. Croix, as marked on Mitchell's map. One of the American Ministers at first proposed the river St. Johns, as marked on Mitchell's map, but his colleagues observing that as St. Croix was the river mentioned in the charter of Massachusetts Bay, they could not justify insisting on St. Johns; as an ultimatum he agreed with them to adhere to the charter of Massachusetts Bay, but whether it was understood, intended, or agreed, between the British and American Commissioners, that the river St. Croix, as marked on Mitchell's map, should so be the boundary as to preclude all inquiry respecting any error or mistake in the said map in designating the river Saint Croix, or whether there was any, and if so, what understanding, intent, or agreement between the Commissioners, relative to the case of error or mistake in this respect in the said map, that the case of such supposed error or mistake was not suggested, and consequently there was no understanding, intent, or agreement expressed respecting it.”

Appendix.
No. 23.

Depositions of
John Adams and
John Jay, and Dr.
Franklin's & John
Adams' Letters,
respecting Mitch-
ell's Map.

John Adams' De-
position.

JOHN JAY'S DEPOSITION.

“ In the course of the negotiations, difficulties arose respecting the Eastern boundary of the United States. Mitchell's map was before them, and frequently consulted for geographical information. In settling the boundary line (described in the treaty) and of which the river St. Croix forms a part, it became a question which of the rivers in those parts was the true river St. Croix, it being said that several of them had that name. They did finally agree that the river St. Croix laid down in Mitchell's map was the river St. Croix which ought to form a part of the said boundary line,

John Jay's Depo-
sition.

Appendix. but whether that river was so decidedly and permanently adopted and agreed upon No 23. by the parties as conclusively to bind the two nations to that limit, even in case it should afterwards appear that Mitchell had been mistaken, and that the true river St. Croix was a different one from that which is delineated by that name in his map, is a question or case which he does not recollect nor believe was then put or talked of. For his own part *he was of opinion that the easterly boundaries of the United States, ought, on principles of right and justice, to be the same with the easterly boundaries of the late Colony or Province of Massachusetts."*

Depositions of
John Adams and
John Jay, and Dr.
Franklin's & John
Adams' Letters re-
specting Mitchell's
Map.
John Jay's Depo-
sition.

DR. FRANKLIN'S LETTER.

Dr. Franklin's
Letter.

"I received your letter of the 31st past, relating to the encroachments made on the eastern limits of the United States by settlers under the British Government, pretending that it is the Western and not the Eastern river of the Bay of Passamaquoddy, which was designated by the name of St. Croix in the Treaty of Peace with that nation, and requesting me to communicate any facts which my memory or papers may enable me to recollect, and which may indicate the true river the Commissioners had in view to establish as the boundary between the two nations. *I can assure you that I am perfectly clear in the remembrance that the map we used in tracing the boundary between the two nations was brought in the Treaty by the Commissioners from England*, and that it was the same that was published by Mitchell above twenty years before. That the map we used was Mitchell's map, Congress was acquainted at the time, by a letter to their Secretary for Foreign Affairs, which I suppose may be found upon their files."

Extract of a letter from John Adams to Lieutenant Governor Cushing, dated Auteuil, near Paris, 25th October, 1784.

COMMONWEALTH OF MASSACHUSETTS,
Secretary's Office.

I hereby Certify, that it appears by the Records remaining in this Office, that John Avery, Jun., whose signature is borne on the paper to this Certificate annexed, was Secretary of the Commonwealth of Massachusetts from October 27, 1780, until his decease in June, 1806.

In testimony of which I have hereunto affixed the Seal of the said Commonwealth, in my custody and possession, this eleventh day of September, Anno Domini one thousand eight hundred and twenty-eight.

EDWARD D. BANGS,
Secretary of the Commonwealth.

John Adams' Letter.

An extract of a Letter from his Excellency John Adams, Esq., to his Honour Lieut. Governor Cushing, dated Auteuil, near Paris, October 25th, 1784.

In writing upon the subject of the Line between Massachusetts and Nova Scotia, he observes as follows :

"We had before us, through the whole Negotiation, a variety of Maps; but it was Mitchell's Map upon which was marked out the whole of the Boundary Lines of the United States, and the River St. Croix, which we fixed on, was, upon that Map, the nearest River to St. John's, so that in all Equity, good Conscience, and Honour, the River next to St. John's should be the Boundary. I am glad the General Court are taking early measures and hope they will pursue them steadily, until the point is settled, which it may be now, amicably; if neglected long it may be more difficult."

Attest,

JOHN AVERY, Jun.,
Secretary.

APPENDIX, No. XXIV.

ADDITIONAL INSTRUCTIONS

TO

JONATHAN BELCHER, CAPTAIN-GENERAL AND GOVERNOR-IN-CHIEF

OF THE

PROVINCE OF MASSACHUSETTS BAY,

WHITEHALL, 5TH AUGUST, 1740,

With copy of the King's Order in Council of the same date.

John Bell Governor of the State of New Hampshire,

TO ALL WHO SHALL SEE THESE PRESENTS, GREETING:

Know ye, that Richard Bartlett, whose Certificate is borne on the Pa- *Appendix.*
per hereunto annexed, is Secretary of the said State, duly constituted No. 24.
[L. S.] and sworn; and that to his Acts and Attestations as such, full faith and credit are and ought to be given, in and out of Court, within and out of the State. Additional Instructions to Gov. Belcher

JOHN BELL.

In testimony whereof, I have caused the Seal of the State to be hereunto affixed.

Given under my hand at Concord, this twenty-sixth day of September, in the year of our Lord one thousand eight hundred and twenty eight, and in the fifty-third year of the Independence of the United States of America.

By the Lords Justices

JO. CANT,
HARDWICKE, C.
WILMINGTON, P.

HERVEY, C. P. S.
GRAFTON,
MONTAGUE.

Additional Instruction to Jonathan Belcher, Esq. Captain General and Governor in Chief in and over His Majesty's Province of the Massachusetts Bay in New England in America, or to the Commander in [Loc. SIGILLI] Chief of His Majesty's said Province for the time being. Given at Whitehall the fifth day of August 1740 in the fourteenth year of His Majesty's Reign.

Whereas Disputes and Controversies have for many years subsisted between His Majesty's loving subjects of the Province of the Massachusetts Bay and New Hampshire in New England in regard to the boundaries between the said Provinces and whereas His Majesty was pleased by his Order in Council dated the 22nd Januar y

Appendix.
No. 24.

Additional In-
structions to Gov-
ernment.

1735 to direct that Commissioners should be appointed to mark out the dividing line between the said Provinces and also by his Majesty's order in Council of the 9th February 1736 to direct that a commission should be prepared and pass'd under the Great Seal (which said commission was accordingly issued out) for authorising such Commissioners to meet within a limited time to mark out the dividing line between the said Provinces with liberty to either party who shall think themselves aggrieved by the determination of the said Commissioners to appeal therefrom to His Majesty in Council which said Commissioners did make their Report in the following words—

In pursuance of His Majesty's aforesaid Commission the Court took under consideration the Evidencies, Pleas and allegations offer'd and made by each party referring to the controversy depending between them, and upon mature advisement on the whole a doubt arose in point of Law and thereupon the Court came to the following Resolution (vizt)

“That if the Charter of King William and Queen Mary dated October the 7th in the third year of their Reign grants to the Province of the Massachusetts Bay all the lands which were granted by the Charter of King Charles the first dated March the fourth in the fourth year of His reign, to the late Colony of the Massachusetts Bay lying to the northward of Merrimack River, then the Court adjudge and determine that a line shall run parallel with the said river at the distance of three English miles North from the mouth of the said River beginning at the southerly side of the Black Rocks so called at low water mark, and from thence to run to the Crotch or parting of the said river, where the rivers of Pemigewasset and Winnepiscooke meet and from thence due North three English miles and from thence due West towards the South Sea, until it meets with His Majesty's other Governments which shall be the boundary or dividing line between the said Provinces of the Massachusetts Bay and New Hampshire on that side; But if otherwise then the Court adjudge and determine that a line on the Southerly side of New Hampshire beginning at the distance of three English miles North from the Southerly side of the Black Rocks aforesaid at low water mark and from thence running due west up into the main land towards the South Sea, until it meets with His Majesty's other Government shall be the boundary line between the said Provinces on the side aforesaid, Which point in doubt with the Court as aforesaid they humbly submit to the wise consideration of His Most Sacred Majesty in His Privy Council, to be determined according to his Royal Will and Pleasure therein.

“And as to the Northern boundary between the said Provinces the Court resolve and determine that the dividing line shall pass up through the mouth of Piscataqua Harbour and up the middle of the River into the River of Newichwannock part of which is now called Salmon Falls and through the middle of the same to the furthest head thereof and from thence North two degrees Westerly until one hundred and twenty miles be finished from the mouth of Piscataqua Harbour aforesaid or until it meets with His Majesty's other Governments. And that the dividing line shall part the Isles of Shoales and run through the middle of the Harbour between the Islands to the Sea, on the Southerly side and that the south westerly part of the said Islands shall lye in and be accounted part of the Province of New Hampshire, and that the North Easterly part thereof shall lye in and be accounted part of the Province of the Massachusetts Bay and be held and enjoyed by the said Provinces respectively in the same manner as they now do and have heretofore held and enjoyed the same—

“And the Court do further adjudge that the Cost and charge arising by taking out the Commission as also of the Commissioners and their Officers (vizt) the two Clerks Surveyor and Waiter for their travelling expences and attendance in the execution of the same be equally borne by the said Provinces. And whereas appeals from the determination of the said Commissioners have been laid before His Majesty by the Agents for the re-

spective Provinces of the Massachusetts Bay and New Hampshire which said Appeals have been heard before the Committee of Council for hearing appeals from the Plantations, who after having considered the whole matter and heard all Parties concerned therein did report unto his Majesty as their opinion, That the Northern Boundaries of the said Province of the Massachusetts Bay are and be a similar curve line pursuing the course of Merrimack River at three miles distance on the North side thereof beginning at the Atlantick Ocean and ending at a point due north of a place in the plan returned by the said Commissioners called Pautucket Falls and a strait line drawn from thence due West cross the said River till it meets with His Majesty's other Governments and that the rest of the Commissioners said Report or determination be affirmed by His Majesty which said Report of the said Committee of Council, His Majesty hath been pleased with the advice of His Privy Council to approve and to declare adjudge and order that the Northern Boundaries of the said Province of the Massachusetts Bay are and be a similar curve line pursuing the course of Merrimack River at three miles distance on the North side thereof beginning at the Atlantick Ocean and ending at a point due north of a place in the Plan returned by the said Commissioners called Pautucket Falls and a strait line drawn from thence due West cross the said River till it meets with His Majesty's other Governments. And to affirm the rest of the Commissioners said Report or Determination whereof the Governor or Commander in Chief of His Majesty's said Provinces for the time being as also His Majesty's respective Councils & assemblies thereof and all others whom it may concern are to take notice :"

It is therefore His Majesty's Will & Pleasure and you are hereby required and enjoyned under pain of his Majesty's highest displeasure and of being removed from your Government to take especial care that His Majesty's commands in this behalf be executed in the most effectual and expeditious manner to the end that His Majesty's good intentions for promoting the peace and quiet of the said Provinces may not be frustrated or delayed. And you are likewise hereby directed to communicate this Instruction to the Council and Assembly of His Majesty's said Province of New Hampshire and to cause the same to be entered in the Council Books thereof.

And for your further Information herein an authentick Copy of the Plan returned by the said Commissioners is herunto annexed.

September 26, 1528.—I Certify that the foregoing, except the first fifteen Lines, is a true Copy from the Council Records, and that said fifteen lines are copied from a Copy of the Original Instruction "examined Feb. 1740," per

RICHARD WALDRON, *Secretary.*

RICHARD BARTLETT, *Secretary of State.*

APPENDIX, No. XXV.

VATTEL'S LAW OF NATIONS.—(See printed copy of the Work.)

53*

Appendix.
No 24.
A Journal In-
structions to Gov
Belcher.

No. 25.

Vattel's Law of
Nations.

APPENDIX, No. XXVI.

PROCEEDINGS

RELATIVE

TO SURVEYING, MARKING, AND ESTABLISHING THE PARALLEL OF 45 DEGREES,

THE BOUNDARY BETWEEN

THE PROVINCES OF NEW YORK AND QUEBEC,

viz :

| | |
|---|--------------------|
| Extract from an Act of the General Assembly of New-York | 13 January, 1768. |
| Do. from Council Minutes, with King's Order in Council | 12 August, 1768. |
| Letter from Governor Tryon to the Surveyor General | 30 December, 1771. |
| Do. same to same | 7 January, 1772. |
| Do. same to same | 30 January, 1772. |
| Do. from Thomas Valentine | 3 February, 1772. |
| Do. from same | 16 August, 1772. |
| Do. from John Collins to Surveyor General | 1 October, 1772. |
| Do. Thomas Valentine to Do. | 22 October, 1772. |
| Extract from Council Minutes of New-York | 26 June, 1773. |
| Deputation to C. I. Santhier, as Surveyor | 2 July, 1773. |
| Extract from Journal of General Assembly of New-York | 17 February, 1774. |
| Do. from an Act of Do. | 19 March, 1774. |
| Do. Journal Do. | 28 March, 1775. |
| Do. an Act Do. | 1 April, 1775. |

EXTRACT

FROM AN ACT PASSED JANUARY 13TH, 1768

Appendix. An Act for the payment of the Salaries of the several Officers of the Government No. 26. and of other services and for the better securing the public funds of the Colony.

Boundary between
New York and
Quebec.

Extract from an
Act, passed 13th
January, 1768.

Be it enacted by His Excellency the Governor the Council and the General Assembly and it is hereby Enacted by the Authority of the same that the Treasurer of this Colony shall be and hereby is directed and required out of the monies arisen or which may arise by virtue of the following Act Viz "An Act for Granting unto His Majesty the several duties and impositions on Goods Wares and Merchandizes imported into this Colony therein mentioned" to pay

Unto his Excellency the Governor for administering the Government of this Colony from the first day of September one thousand seven hundred and sixty-seven to the first day of September one thousand seven hundred and sixty-eight after the rate of two thousand pounds per annum.

Unto his said excellency the Governor for monies by him expended on his Journey to settle the line of jurisdiction between this Colony and the Province of Quebec the sum of three hundred and seventy-nine pounds eleven shillings and seven pence.

Assembly Chamber City of New-York Die Martis the 5th of January 1768 In *Appendix.*
 the eighth year of his Majesty's reign. General Assembly for the Colony of New No. 26.
 York. This Bill having been read three times Resolved that the Bill do pass By
 order of the General Assembly

W. NICOLL,
Speaker.

Boundary be-
 tween New York
 and Quebec.

Extract from an
 Act passed 13th
 January, 1768

Assembly Chamber Die Martis the 5th of January 1778.

Ordered that Col. Seaman and Major Lispenard do carry this bill to the Council
 and desire their concurrence thereto. By order of the General Assembly.

AB'M LOTT,
Clerk.

Council Chamber City of New York 5th January 1768.

This Bill was then read the first time and ordered a second reading. 6th January,
 Read the second time, committed and reported without amendment and ordered a
 third reading :

January 5th, Read the third time and passed.

GEO. BANYAR,
D. Clk. Con.

New York 13th January 1768. I assent to this Bill Enacting the same and order
 it to be Enrolled.

H. MOORE.

STATE OF NEW YORK,
Secretary's Office.

I certify the preceding to be true Extracts from an original law on file in this office.

In testimony whereof, I have hereunto affixed the Seal of this Office, at the
 [L. s.] City of Albany, the 3d day of October, 1828.

ARCH'D CAMPBELL,
Dep. Secretary.

*By Nathaniel Pitcher, Lieutenant Governor of the State of New York, acting as
 Governor of the said State :*

It is hereby certified, that the above attestation is in due form, and by the proper
 officer.

In testimony whereof, I have hereunto affixed the Great Seal of this State.

[L. s.] Witness my hand, at the City of Albany, the third day of October, 1828.

NATHANIEL PITCHER.

EXTRACT

FROM THE COUNCIL MINUTES OF OCTOBER 21, 1768, INCLUDING THE KING'S ORDER
 IN COUNCIL, DATED AUGUST 12, 1768, CONFIRMING THE PROCEEDINGS RELATING
 TO THE LINE BETWEEN NEW YORK AND QUEBEC.

At a Council held at Fort George in the City of New York on Friday the 21st day of October 1768 *Order in Council.
 12th August, 1768.*

Present

His Excellency Sir Henry Moore, Baronet, Captain General &c

Mr Watts

Mr Morris

Mr Reade

Mr Cruger

His Excellency communicated to the board a Letter to him of the 13th August last
 from the Earl of Hillsborough his Majesty's principal Secretary of State for the Colo-

Appendix.
No. 26.

Boundary be-
tween New York
and Quebec.

Order of Council,
12th August, 1768.

nies with sundry papers inclosed and referred to therein all which being read were ordered to be entered on the minutes and are as follows

WHITEHALL 13th August 1768.

SIR :

On the 18th July I received your Letter to me No 11 acquainting me with your intention of setting out the next day after the date of it for the Mohawk Country and I shall be happy to hear that your Journey has proved as agreeable to yourself as I dare say it will have been beneficial to the public.

I have only in command from his Majesty to send you the inclosed order of His Majesty in Council confirming the boundary line between New York and Quebec as agreed upon and fixed by yourself and Governor Carleton for the due Execution of which order under the several limitations and restrictions contained in it His Majesty has the fullest reliance on your zeal for and attention to his service.

Some doubts having occurred to the Lords of trade whether the two last acts passed in New York for making provision for quartering His Majesty's Troops were such a Compliance with the British act of Parliament as to give validity to the subsequent acts and proceedings of the Legislature there under the restrictions of the act of Parliament of the 7th of the King, their Lordships thought fit to make a report to His Majesty thereupon.

This report has since been referred to his Majesty's Attorney and Solicitor General for their opinion upon the question agitated by the board of trade and they having reported that they are of opinion the act of Assembly passed in New York in June 1767 is such a Compliance with the act of Parliament of the 7th year of His Majesty's Reign as leaves the validity of the acts and proceedings of the Legislature of the Colony subsequent to the 1st of October 1767 subject to no objection on that account I herewith inclose to you a Copy of His Majesty's order in Council thereupon directing the Lords Commissioners for trade and plantations to proceed in the Consideration of the other laws passed in that Province and make their representations thereupon to His Majesty in Council in the usual and accustomed manner.

I am Sir your most Obedient Humble servant

HILLSBOROUGH.

At a Court at St. James' the 13th day of August 1768.

Present

The King's most Excellent Majesty

| | |
|----------------------|-----------------------------|
| Duke of Grafton | Viscount Falmouth |
| Duke of Rutland | Viscount Barrington |
| Duke of Queensbury | Viscount Villiers |
| Marquis of Granby | Lord North |
| Earl of Litchfield | James Stuart Mackenzie Esqr |
| Earl of Hill-borough | Thomas Harley Esqr. |
| Earl of Shelburne | Sir Edward Hawke |
| Viscount Weymouth | |

Whereas there was this day read at the board a report from the right Honorable the Lords of the Committee of Council for plantation affairs dated the 9th of this instant upon considering a report made by the Lords Commissioners for trade and plantations upon an Extract of a letter from Sir Henry Moore Governor of New York to the Earl of Shelburne dated the 16th of January last relative to the settling the boundary line between that Province and Quebec; By which report it appears that it having been mutually agreed upon between Sir Henry Moore and the Commander in Chief of the Province of Quebec at a meeting for that purpose appointed that the line of division between these Provinces should be fixed at the forty-fifth degree of North latitude-

conformable to the limits laid down in his Majesty's proclamation of October 1763 and it having been ascertained and determined by proper observations where the said line would pass it is therefore proposed that these proceedings above stated should be confirmed by His Majesty His Majesty taking the said report into consideration was pleased with the advice of his privy Council to approve thereof and doth hereby Confirm the said proceedings above stated and order that the said line of Division be run out and continued as far as each Province respectively extends Provided that nothing herein before contained shall extend to affect the properties of His Majesty's new subjects having possessions under proper titles on those parts of the lands on the South side of this line the dominion of which was not disputed on the part of the Crown of Great Britain and Provided also that this determination shall not operate wholly to deprive his Majesty's new subjects of such concessions on the South side of the said line on which they may have made actual settlement and improvement although the Lands may have been disputed by the Crown of Great Britain but that such possessors shall be entitled to so much of the said concessions as shall be proportioned to their improvements at the rate of fifty acres for every three acres of improvement Provided they take out grants for the same under the Seal of the Province of New York subject to the usual quit rents and Provided also that the grant to no one person shall exceed twenty thousand acres and the Governors or Commanders in Chief of His Majesty's said Provinces of New York and Quebec for the time being and all others whom it may concern are to take notice of His Majesty's pleasure hereby signified and govern themselves accordingly.

Appendix.
No. 26.
Boundary between New York and Quebec.
Order in Council,
12th August, 1768.

STEPHEN COTTRELL.

STATE OF NEW YORK,
Secretary's Office.

I certify the preceding to be a true Extract from the Council Minutes of the Colony of New York, deposited in this office.

In testimony whereof I have hereunto affixed the Seal of this Office, at
[L. s.] the City of Albany, the 30th day of September, 1828.

ARCHD. CAMPBELL,
Dep. Secretary.

By Nathaniel Pitcher, Lieutenant Governor of the State of New York, acting as Governor of the said State:

It is hereby certified that the preceding attestation is in due form, and by the proper officer.

In testimony whereof, I have hereunto affixed the Great Seal of this
[L. s.] State. Witness my hand at the City of Albany, the 30th day of September, 1828.

NATHANIEL PITCHER.

COPY OF A LETTER

FROM GOVERNOR TRYON TO THE SURVEYOR GENERAL—DECEMBER 30, 1771.

FORT GEORGE, NEW YORK,
30th December, 1771.

SIR: The Commissioners formerly appointed for running the Partition Line between this Government and the Province of Canada having proceeded only twenty

Letter from Gov.
Tryon to the Surveyor General.
30th Dec. 1771.

Appendix. miles of the distance, and it being necessary that some other person should be appointed in the room of Mr. Benzell that the same may be fully extended between the two Governments, the nature of your office as Surveyor General of the Province points you out to me as the properest person to be nominated on the part of this Government, to perform that essential and important service. I am therefore to desire you to attend at Col. Christy's, on the River Cole, on the first day of March next, with such assistants and attendants only as will be necessary for extending the divisional Line to the Western Banks of Connecticut River, in conjunction with the Commissioner named by the Government of Canada, who has directions to meet you at Col. Christy's house with provisions and other necessaries for proceeding without delay on the survey agreeable to His Majesty's pleasure concerning the limits of the two Governments.

No. 26.
Boundary between New York and Quebec.

Letter from Gov. Tryon to the Surveyor General.
29th Dec. 1771.

I am, Sir,

Your most obedient servant,

WILLIAM TRYON.

ALEXANDER COLDEN, *Esquire, Surveyor General.*

STATE OF NEW YORK,

Secretary's Office.

I certify the preceding to be a true copy of an original letter on file in this office.

In testimony whereof, I have hereunto affixed the seal of this Office, at
[L. s.] the City of Albany, the 30th day September, 1828.

ARCHIBALD CAMPBELL,

Deputy Secretary.

By Nathaniel Pitcher, Lieutenant Governor of the State of New York, acting as Governor of the said State:

It is hereby certified that the preceding copy is attested in due form, and by the proper officer.

In testimony whereof, I have hereunto affixed the Great Seal of this State.
[L. s.] Witness my hand at the City of Albany, the 30th day of September, 1828.

NATHANIEL PITCHER.

COPY OF A LETTER

FROM GOVERNOR TRYON TO A. COLDEN, SURVEYOR GENERAL—JANUARY 7, 1772.

FORT GEORGE, NEW YORK,

7th January, 1772.

Letter from Gov. Tryon to the Surveyor General.
January 7, 1772.

SIR: It was from the sense I had of the duty of your office, as well as the favourable opinion I entertain of you, that occasioned me to desire you to attend in person the running of the partition line between this Government and the Province of Canada.

However, as you inform me by your letter of yesterday, that your precarious state of health obliges you to request of me to excuse your going on that business, I am to direct you to order some sufficient deputy to carry on that important service agreeable to the tenor of His Majesty's instructions, and the directions contained in my letter

to you of the 30th of December last. Punctuality in your Deputy in meeting the *Appendix.*
 Commissioner from Canada, on the first of March next, at the rendezvous appointed, No 26.
 is indispensably necessary.

I am, Sir,

Your very obedient servant,
 WILLIAM TRYON.

A. COLDEN, *Esquire, Surveyor General.*

Boundary between New York and Quebec.

Letter from Gov. Tryon to the Surveyor General. 7th January, 1772.

STATE OF NEW YORK,
Secretary's Office.

I certify the preceding to be a true copy of an original letter on file in this office.

In testimony whereof, I have hereunto affixed the seal of this office, at

[L. s.] the City of Albany, the 30th day of September, 1828.

ARCHIBALD CAMPBELL,
Deputy Secretary.

By Nathaniel Pitcher, Lieutenant Governor of the State of New York, acting as Governor of the said State:

It is hereby certified that the preceding copy is authenticated in due form, and by the proper officer.

In testimony whereof, I have hereunto affixed the Great Seal of this State.

[L. s.] Witness my hand at the City of Albany, the 30th day of September, 1828.

NATHANIEL PITCHER.

COPY OF A LETTER

FROM GOV. TRYON TO ALEXANDER COLDEN, SURVEYOR GENERAL—JAN. 30, 1772.

FORT GEORGE, NEW YORK,
 30th January, 1772.

SIR: In consequence of the Commission you have received from me for running the Partition line between this Government and the Province of Quebec, You will please to observe that you are required by yourself or your sufficient Deputy to repair by the first day of March next to the house of Colonel Christy on the River Cole about two leagues to the northward of Point Moore, taking with you such assistants and attendants as will be requisite for extending the said line in conjunction with the Surveyor (or Commissioner) and his attendants appointed by the Government of Quebec who will meet you there, with provisions and necessaries for proceeding without delay to the place where the Surveyors (or Commissioners) stopped the last fall. From whence you are to continue the same line until you arrive at the Western Banks of the main branch of Connecticut River that crosses the Forty-Fifth degrees of Northern Latitude, but if such main branch shall be found not to extend Northward so far as the Latitude of Forty-Five then to run a perpendicular from the northernmost part of the said Branch to the line aforesaid; and in running the said Line care must be taken to blaze the trees on the East and West sides as you pass along, cutting down only such Trees as stand directly in the sight of the compass, and at the distance of every three miles laying together a large heap of stones and cutting a few knotches on the trees

Letter from Gov. Tryon to the Surveyor General. 30th January, 1772.

Appendix. No. 26. *highest each pile of stones. It is of the utmost consequence that you should not stop at any water course short of the aforementioned main branch of Connecticut river and it is only by adhering to these Instructions that you can answer the just expectations of the public from whom you are to receive your reward for performing this important service. You are to return to me a Map with a Field book of the survey, in which book you are to take notice of all remarkable waters you cross, minuting also the courses and distances of the marked trees near the monuments of stones you shall erect, with such other observations as shall appear worthy of notice, to the intent such Map and Field book may be lodged in the Office of the Secretary of the Province.*

Boundary between New York and Quebec.

Letter from Gov. Tryon to the Surveyor General, January 30, 1772.

I am Sir, Your most Obedient Servant,

WM. TYRON.

ALEXANDER COLDEN, *Esquire, Surveyor General.*

STATE OF NEW YORK,
Secretary's Office.

I certify the preceding to be a true copy of a certain Original instrument in writing on file in this office.

In testimony whereof, I have hereunto affixed the seal of this office, at the City of Albany, the 30th day of September, 1828.

[L. s.]

ARCHID. CAMPBELL,
Dep. Secretary.

By Nathaniel Pitcher, Lieutenant Governor of the State of New York, acting as Governor of the said State;

It is hereby certified that the preceding copy is authenticated in due form, and by the proper officer.

In testimony whereof, I have hereunto affixed the Great Seal of this State. Witness my hand, at the City of Albany, the 30th day of September, 1828.

NATHANIEL PITCHER.

COPY OF A LETTER

FROM THOMAS VALENTINE—FEBRUARY 3, 1772.

Letter from Thomas Valentine, 3d February, 1772.

SIR: As Canada is bounded on the South by "a line drawn from the South end of Lake Nipissim crossing the River St. Lawrence and Lake Champlain in forty five degrees of Northern Latitude and thence passing along the Highlands which divides the rivers that empty themselves into the said River St. Lawrence from those which fall into the Sea," I am apprehensive that the Highlands aforesaid have a different bearing from the course of the Line to be run for the northern bounds of this Province, and that the Surveyor on the part of Quebec Government, will not proceed farther than where he meets the highlands or comes to the heads of the rivers above described. I therefore request that when my Instructions are making out for the running of the said line that you may direct how I shall act in that case. Also whether the said line shall be continued West from Point Moore to the River St. Lawrence as 'tis highly that the Government of Quebec want to have the Southern bounds of that part of their Province ascertained.

I am Sir, Your most Obed't humble Servant,

THO: VALENTINE.

NEW YORK, *February 3d, 1772.*

STATE OF NEW YORK,
Secretary's Office.

Appendix.
No. 26.

I certify the preceding to be a true copy of an original letter on file in this office.

Boundary be-
tween New York
and Quebec.

In testimony whereof, I have hereunto affixed the seal of this office, at the City
[L. s.] of Albany, the 30th day of September, 1828.

ARCHD. CAMPBELL,
Dep. Secretary.

*By Nathaniel Pitcher, Lieutenant Governor of the State of New York, acting as
Governor of the said State:*

It is hereby certified that the preceding copy is attested in due form, and by the proper officer.

In testimony whereof, I have hereunto affixed the Great Seal of this State.

[L. s.] Witness my hand at the City of Albany, the 30th day of September, 1828.

NATHANIEL PITCHER

COPY OF A LETTER

FROM THOMAS VALENTINE—AUGUST 16, 1772.

SIR: Having occasion to send a man to Montreal, I take that opportunity of informing you that we have continued the Line to the Eastward of Lake Mamraabagaet, and are now about fifty-six miles from Lake Champlain. The part of the country that the line passes over is very mountainous, indeed it is the very height of the land, and the weather for sometime past, has been uncommonly windy and wet, which together with the difficulty of getting the provisions forward, has retarded us a great deal. But let what difficulties or hardships soever attend it, I, on my part, am determined, (though I have never been able to recover from a violent cold I took on my first passing Lake Champlain) not to leave the woods till the survey is completed. I request you may please to inform the Governor what I have wrote you, as we have not as much paper fit to use, as would contain a few lines to His Excellency.

Letter from Thomas Valentine.
16th August, 1772

I am, Sir,

With the most unfeigned respect,

Your most obedient humble servant,

THOMAS VALENTINE.

August 16, 1772.

STATE OF NEW YORK,
Secretary's Office.

I certify the preceding to be a true copy of an original letter on file in this office.

In testimony whereof, I have hereunto affixed the seal of this office, at

[L. s.] the City of Albany, the 30th day of September, 1828.

ARCHIBALD CAMPBELL,
Deputy Secretary.

*By Nathaniel Pitcher, Lieutenant Governor of the State of New York, acting as
Governor of the said State:*

It is hereby certified that the preceding copy is attested in due form, and by the proper officer.

In testimony whereof, I have hereunto affixed the Great Seal of this State.

[L. s.] Witness my hand, at the City of Albany, the 30th day of September, 1828.

NATHANIEL PITCHER.

Appendix.
No. 26.

Boundary between New York
and Quebec.

Letter from John
Collins to the Sur-
veyor General
October 1, 1772.

COPY OF A LETTER

FROM JOHN COLLINS TO THE SURVEYOR GENERAL—OCTOBER 1, 1772.

BOUNDARY ON CONNECTICUT RIVER,
October 1st, 1772.

DEAR SIR: I have the pleasure to acquaint you that the Division Line between your Province and that of Quebec, terminates two miles and five eighths of a mile upon a direct line above the mouth of Hulls Brook, distance ninety mile and one fourth of a mile from the Boundary fixed on Lake Champlain. Time will not permit me to say more, but that

I am, with great esteem, dear Sir,

Your most faithful and most obedient humble servant,

JOHN COLLINS.

To ALEX. COULMING, *Esquire.*

STATE OF NEW YORK.

Secretary's Office.

I certify the preceding to be a true copy of an original letter on file in this office.

In testimony whereof, I have herewith affixed the seal of this office, at
[L. s.] the City of Albany, the 30th day of September, 1828.

ARCHIBALD CAMPBELL,

Deputy Secretary.

*By Nathaniel Pitcher, Lieutenant Governor of the State of New York, acting
as Governor of the said State:*

It is hereby certified that the preceding copy is attested in due form, and by the proper officer.

In testimony whereof, I have herewith affixed the Great Seal of this State.
[L. s.] Witness my hand at the City of Albany, the 30th day of September,
1828.

NATHANIEL PITCHER

COPY OF A LETTER

FROM THOMAS VALENTINE TO ALEXANDER COLDEN—OCTOBER 22, 1772.

SIR,

Letter from Tho-
mas Valentine
October 22, 1772.

I take the earliest opportunity of informing you that we reached the main Branch of Connecticut River on the last day of September; the whole distance from where the survey began is ninety and a quarter miles. On the west bank of the river we put up a squared Post and laid a quantity of stones about it, and had all the Trees and Bashes for some distance around it cleared away to render it more conspicuous; we returned by the river St Francois and arrived here on Sunday last. All possible expedition shall be used to prepare a Map, copy our Field book, and settle the accounts. And I hope to be ready to return before the severe weather sets in. The Abenaku Savages are much displeased with the Course of the Line, say their Hunting

Grounds are encroached on, and pulled down a Post that we erected on the East Bank of the Lake Manraabagak; the offenders remain undiscovered or I would have them punished, and will use my utmost industry to find them out as it may have bad consequences if suffered to pass unnoticed.

I am, Sir,

Your most obedient humble servant,

THO. VALENTINE.

Quebec, 22 Octr. 1772.

ALEX. COLDEN, Esq.

Appendix.
No 26.
Boundary between New York and Quebec.

Letter from Thomas Valentine, October 22, 1772.

STATE OF NEW-YORK,

Secretary's Office.

I certify the preceeding to be a true copy of an original letter on file in this office.

In testimony whereof I have hereunto affixed the Seal of this office, at the [L. s.] City of Albany, the 30th day of September, 1828.

ARCH'D CAMPBELL,

Dep. Secretary.

By Nathaniel Pitcher, Lieutenant Governor of the State of New-York, acting as Governor of the said State:

It is hereby certified, that the preceeding copy is attested in due form, and by the proper Officer.

In testimony whereof, I have hereunto affixed the Great Seal of this State.

[L. s.] Witness my hand, at the City of Albany, the 30th day of September, 1828.

NATHANIEL PITCHER.

EXTRACT

FROM THE COUNCIL MINUTES, DATED JUNE 26, 1773.

At a Council held at Fort George in the City of New-York on Saturday the twenty-sixth day of June 1773

Extract from the Council Minutes of New York. June 26, 1773.

Present,

His Excellency William Tryon Esquire Captain General &c

Mr Watts

Mr Smith

Mr De Lancey

Mr Wallace

Mr Croger

Mr White

His Excellency laid before the Board Lieutenant Governor Cramahe's Letter of the 5th instant with Lieutenant Hope's Certificate shewing that Mr Valentine's Indisposition will probably prevent the running of the Line between this and the Province of Quebec on the Westerly side of Lake Champlain and required the opinion of the Council as to the steps proper to prevent a Disappointment in this service and all unnecessary Expence. And thereupon the Council advised his Excellency to certify the Surveyor General of Mr. Valentine's Indisposition that he may make immediate provision for the supply of Mr. Valentine's place either by his own attendance or by some able Deputy to be approved of by His Excellency and were also further of opinion that his Excellency write to Mr. Cramahe earnestly urging the finishing of this Work without further delay by Mr Collins and such surveyor as may attend on

Appendix. No. 26. the Part of this Province or by any other person to be appointed in Mr Collin's stead if his other Engagements prevent his assisting in the Work and the rather because it may be doubted if it is unfinished this year whether the Assembly of this Province can be persuaded to make any farther Provision for a service which has already been so expensive.

Boundary between New York and Quebec.

STATE OF NEW YORK,
Secretary's Office.

I certify the preceding to be a true Extract from the Council Minutes of the Colony of New-York.

In Testimony whereof I have hereunto affixed the Seal of this Office, at the
[L. s.] City of Albany, the 30th day of September, 1828.

ARCH'D CAMPBELL,
Dep. Secretary.

By Nathaniel Pitcher, Lieutenant Governor of the State of New-York, acting as Governor of the said State:

It is hereby certified that the preceding copy is attested in due form, and by the proper officer.

In testimony whereof, I have hereunto affixed the Great Seal of this State.
[L. s.] Witness my hand, at the City of Albany, the 30th day of September, 1828
NATHANIEL PITCHER.

DEPUTATION

TO CLAUDE JOSEPH SAUTHIER, AS SURVEYOR—JULY 2, 1773.

Deputation to C. J. Sauthier
2d July. 1773

Whereas by virtue of the power granted me in a commission under the Great Seal of the Province of New York bearing date the twenty-third day of January, 1772, I deputed Mr. Thomas Valentine, to act as Surveyor on the part of the Province of New York in conjunction with the Surveyor that was or should be appointed on the part of the Province of Quebec for running, marking, ascertaining and distinguishing the Division line between the said Provinces. His Excellency Governor Tryon on the 26th day of last month, laid before his Majesty's Council for the Province of New York a letter from Lieut. Governor Cramahe, and a certificate from Lieut. Hope, Surgeon of the 52d regiment, shewing that the said Thomas Valentine's indisposition would probably prevent the running of the line between this and the Province of Quebec on the westerly side of Lake Champlain. That Honorable Board to prevent a disappointment in this service and all unnecessary expence advise his Excellency to certify to me Mr. Valentine's indisposition that I might make immediate provision for the supply of Mr. Valentine's place either by my own attendance or by some able Deputy to be approved of by his Excellency. I have therefore with the approbation of his Excellency constituted and appointed, and by these presents do constitute and appoint Mr. Claude Joseph Sauthier my deputy in the stead and in place of the said Thomas Valentine to act as Surveyor on the part of the Province of New York in conjunction with the Surveyor that is or shall be appointed on the part of the Province of Quebec to run, mark out, ascertain and distinguish the said division line on the westerly side of Lake Champlain pursuant to such instructions as

he my said Deputy Mr. Claude Joseph Sauthier shall receive from his Excellency Gov. Tryon, or from the Governor or Commander in Chief of the Province of New York for the time being. Given under my hand and seal at New York this second day of July, 1773.

ALEX: COLDEN,
Surveyor General.

STATE OF NEW YORK,
Secretary's Office.

I certify the preceding to be a true copy of a certain original instrument in writing on file in this Office.

In testimony whereof, I have hereunto affixed the Seal of this Office, at
[L. s.] the City of Albany, the thirtieth day of September, 1828.

ARCHIBALD CAMPBELL,
Deputy Secretary.

By Nathaniel Pitcher, Lieutenant Governor of the State of New York, acting as Governor of the said State:

It is hereby certified, that the preceding copy is authenticated in due form, and by the proper officer.

In testimony whereof, I have hereunto affixed the Great Seal of this State,
[L. s.] at the City of Albany, the thirtieth day of September, 1828.

NATHANIEL PITCHER.

EXTRACT

FROM THE JOURNAL OF THE GENERAL ASSEMBLY—FEBRUARY 17, 1774.

Extract from the Journal of the Votes and Proceedings of the General Assembly of the Colony of New York.

Die Jovis 10 ho: A. M. the 17th February, 1774.

A Message from his Excellency the Governor, by Colonel EDMUND FANNING, his private Secretary:

Gentlemen: Since my last message to you I have received a letter from Mr. Collins the Surveyor on the part of Quebec, for running the partition line between that Province and New York, with copies of the accounts of that service as settled by the Government of Quebec, whereby it appears that he has made a claim against this Province for only ten pounds eighteen shillings and six pence Halifax money. You will perceive however that Mr. Collins has credited this Government with a larger sum by Mr. Sauthier than what was actually advanced by him; consequently there must be an error in that article of Mr. Collins account. The overture made by Mr. Collins to complete the extension of the boundary line to Lake St. Francois as the surveyor for both Provinces for the sum of one hundred pounds sterling, is thought a reasonable proposition by the Government of Quebec, and I esteem it worthy of your consideration. Mr. Collins being in my opinion a gentleman in the integrity of whose conduct in the faithful performance of that service an entire confidence may be placed. The accomplishment of it would effectually prevent all further trouble or controversy about the boundary between the two governments.

WM. TRYON.

NEW YORK, 17th February, 1774.

Appendix.
No. 26.

Boundary between New York and Quebec.

Declaracion to C. J. Sauthier. July 2, 1773.

Extract from the Journal of the General Assembly of New York, February 17, 1774.

Appendix.
No. 26.

Boundary between New York
and Quebec.

STATE OF NEW YORK,
Secretary's Office.

I certify the preceding to be a true extract from the Journal aforesaid, deposited in this office.

In testimony whereof I have hereunto affixed the seal of this office, at the
[L. S.] City of Albany, the 30th day of September, 1828.

ARCHIBALD CAMPBELL,
Deputy Secretary.

*By Nathaniel Pitcher, Lieutenant Governor of the State of New York, acting
as Governor of the said State:*

It is hereby certified that the preceding copy is attested in due form and by the proper officer.

In testimony whereof, I have hereunto affixed the Seal of this office. Wit-
[L. S.] ness my hand, at the city of Albany, the 30th day of September, 1828.

NATHANIEL PITCHER.

EXTRACT

FROM AN ACT OF MARCH 19, 1774.

*An Act for the payment of the Salaries of the several Officers of this Colony and
other purposes therein mentioned.*

Extract of an Act
of March 19, 1774

Be it enacted by his Excellency the Governor the Council and the General Assembly and it is hereby enacted by the Authority of the same That the Treasurer of this Colony shall and hereby is directed and required to pay,

Unto his Excellency William Tryon Esquire or the Commander in Chief for the time being for firewood and candles for his Majesty's Fort George in the City of New York from the first day of September one thousand seven hundred and seventy three to the first day of September one thousand seven hundred and seventy four after the rate of four hundred pounds per annum.

Unto his said Excellency for purchasing Gunpowder for the use of Fort George and the Battery in the City of New York the sum of one hundred pounds.

Unto his said Excellency for monies paid by him to the surveyors which have been employed on the part of this Colony to run out and mark the partition Line between this Colony and the Colony of Quebec as per account the sum of three hundred and thirty one pounds three shillings and nine pence.

Unto Mary Valentine relict and executrix of Thomas Valentine Surveyor deceased in full for his services and expenses in running in part the partition line between this Colony and the Colony of Quebec the sum of three hundred pounds.

Unto Claude J. Sauthier Surveyor for the balance of his account of days wages and expenses in running and marking part of the line of partition between this Colony and the Colony of Quebec the sum of seventy seven pounds seven shillings.

Unto John Collins of Quebec Surveyor a balance due to him as per his account of expenses accrued in running the Quebec line the sum of seven pounds thirteen shillings and six pence.

City of New York the 17th day of March 1774 in the fourteenth year of his Majesty's reign. General Assembly for the Colony of New York, This Bill having been read three times Resolved that the Bill do pass. By order of the General Assembly.

JOHN CRUGER, *Speaker.*

Assembly Chamber City of New York Die Jovis the 17th March 1774—This Bill being passed ordered that Col Seaman and Mr Boerum do carry the Bill to the Council and desire their Concurrence therein. By Order of the General Assembly.

EDM'D. SEAMAN, *Clerk.*

Appendix.
No. 26.

Boundary between New York and Quebec.

Extract of an Act of March 19, 1771

Council Chamber City of New York 17th March 1774. This Bill was then read the first time and ordered a second reading. March 17th P. M. Read the second time and committed. March 18th Reported without amendment and Read the third time and passed.

GEO: BANYAR, *D. Cl. Con.*

City of New York 19th day of March 1774. I assent to this Bill enacting the same and order it to be Enrolled.

WM. TRYON.

STATE OF NEW YORK,
Secretary's Office.

I certify the preceding to be true Extracts from an original Law on file in this Office.

In testimony whereof, I have hereunto affixed the Seal of this Office at the [L. s.] City of Albany, the 30th day of September, 1828.

ARCHIBALD CAMPBELL,
Deputy Secretary.

By Nathaniel Pitcher, Lieutenant Governor of the State of New York, acting as Governor of the said State:

It is hereby certified, that the preceding Copy is attested in due form, and by the proper Officer.

In testimony whereof, I have hereunto affixed the Great Seal of this State.

[L. s.] Witness my hand, at the City of Albany, the 30th day of September, 1828.

NATHANIEL PITCHER.

EXTRACT

FROM THE JOURNAL OF THE GENERAL ASSEMBLY—MARCH 28, 1775.

Extracts from the Journal of the votes and proceedings of the General Assembly of the Colony of New York: Die Martis, 10 ho. A. M. the 28th March, 1775.

A Message from his Honor the Lieutenant Governor by Mr. Bayard Deputy Secretary and the same being read, is in the words following viz.

Gentlemen:

By desire of Governor Tryon, I last Spring sent Mr. Collins the Deputy Surveyor General of the Province of Quebec a Copy of the resolve of your house that you would make provision for paying fifty pounds sterling for completing the line between this province and the Province of Quebec Mr Collins by his letter of the 24th of November last informed me that he had completed the work; that the distance being greater than was expected had occasioned a greater expense than was foreseen and that of con-

Extract from the Journal of the General Assembly of New York. March 28, 1775.

Appendix. sequence he was liable to be a considerable loser by the service which he had undertaken
No. 26. for the Government unless some further allowance was made for his disbursements.

Boundary between New York and Quebec.

Extract from the Journal of the General Assembly of New York, March 28, 1775.

With his letter of the 28th of February Mr Collins has sent me an account of his disbursements and has drawn upon me for the fifty pounds sterling which cannot be paid till an act is passed for the purpose. I send to you the letters and accounts that you may make the necessary provision.

CADWALLADER COLDEN.

New York, 28th March, 1775.

STATE OF NEW YORK,
Secretary's Office.

I certify the preceding to be a true Extract from the Journal aforesaid, deposited in this Office.

In testimony whereof, I have hereunto affixed the Seal of this Office, at the
[L. s.] City of Albany, the 30th day of September, 1828.

ARCHIBALD CAMPBELL,
Deputy Secretary.

By Nathaniel Pitcher, Lieutenant Governor of the State of New York, acting as Governor of the said State.

It is hereby certified, that the preceding Copy is attested in due form, and by the proper Officer.

In testimony whereof, I have hereunto affixed the Great Seal of this State.
[L. s.] Witness my hand at the City of Albany, the 30th day of September, 1828.

NATHANIEL PITCHER.

EXTRACT

FROM AN ACT DATED APRIL 1, 1775.

An act for the payment of the Salaries of the several officers of this Colony and other purposes therein mentioned.

Extract from an Act of last April 1775.

Be it Enacted by his Honor the Lieutenant Governor, the Council and the General Assembly and it is hereby Enacted by the authority of the same That the Treasurer of this Colony shall and hereby is directed and required to pay,

Unto his Honor the Lieutenant Governor or the Commander in Chief for the time being for administering the government of this Colony from the seventh day of April last to the first day of September one thousand seven hundred and seventy-five after the rate of two thousand pounds per annum.

Unto John Collins for completing the Extension of the boundary line between this Colony and the Province of Quebec to Lake St. Francois agreeable to a resolution of this House the sixteenth of March last the sum of eighty five pounds.

City of New York the 30th day of March 1775 in the fifteenth year of his Majesty's Reign. General Assembly for the Colony of New York. This Bill having been read three times Resolved that the Bill do pass. By order of the General Assembly.

JOHN CRUGER, *Speaker.*

Assembly Chamber City of New York Die Jovis the 30th March 1775. This Bill being passed, Ordered that Mr. Wilkins and Mr. Billopp do carry the Bill to the Council and desire their concurrence thereto. By order of the General Assembly.
EDMD: SEAMAN, C^lk.

Appendix.
No 26.
Boundary between New York and Quebec.

Council Chamber City of New York 30th March 1775. This Bill was then read the first time and ordered a second reading. March 31st Read the second time and ordered to be committed. Reported without amendment and ordered a third reading. April 1st Read the third time and passed.

SAMUEL BAYARD, Junr. D. C. Con.

City of New York 1st day of April 1775. I assent to this Bill Enacting the same and order it to be enrolled.

CADWALLADER COLDEN.

STATE OF NEW YORK,
Secretary's Office.

I Certify the preceding to be a true Extract from an original law on file in this office.

In testimony whereof I have hereunto affixed the Seal of this Office, at
[L. s.] the City of Albany, the 30th day of September, 1828.

ARCHD. CAMPBELL,
Dep. Secretary.

By Nathaniel Pitcher, Lieutenant Governor of the State of New York, acting as Governor of the said State:

It is hereby Certified that the preceding Copy is authenticated in due form, and by the proper Officer.

In testimony whereof I have hereunto affixed the Great Seal of this
[L. s.] State. Witness my hand at the City of Albany, the 30th day of September, 1828.

NATHANIEL PITCHER.

APPENDIX, No. XXVII.

EXTRACTS

FROM

THE COUNCIL MINUTES OF NEW YORK,

OF

21st August, 1771, 22d January, 1772, 29th July, 1772, 21st August, 1772, 16th December, 1772,
5th April, 1773, 1st December, 1773.

Appendix. At a Council held at Fort George in the City of New York, on Wednesday the 21st
No 27. day of August, 1771,

Extracts from the
Council Minutes
of New York.

21st August, 1771.

Present,

His Excellency William Tryon, Esquire, Captain General, &c.

Mr. Watts,

Mr. Cruger,

Mr. De Lancey,

Mr. Wallace,

Mr. Morris,

Mr. White,

Mr. Smith,

Mr. Axtell.

His Excellency communicated to the Council the letter to the Commander in Chief of Quebec, in which he intended to inclose printed copies of the proclamation issued pursuant to their advice on the 14th instant relative to the grants of Land made by the French on Lake Champlain, desiring he would be pleased to order the said proclamation to be dispersed and made known in his Government, and give him such information whereby His Excellency may be enabled to judge of the validity of such grants: which letter was read and approved of.

A letter of the 30th July last was read from Adolphus Bauzell, Esquire, acquainting His Excellency that himself and Mr. Collins, Deputy Surveyor General of Quebec, had appointed the 10th or 12th of this month to begin running the line of partition between the two Provinces.

Ordered, That the Clerk of this Board acknowledge the receipt of the above letter; and acquaint Mr. Bauzell by letter that his Excellency recommends the marking and distinguishing the Line so as that it may be easily discovered and traced on future occasions: and that he accompany his return to His Excellency with a copy of his field book, enriched with such remarks as he shall think worthy of observation.

January 22, 1772.

22d Jan. 1772

His Excellency William Tryon, Esquire, Captain General, &c. &c.

Mr. Horsmanden,

Mr. Smith,

Mr. Watts,

Mr. Cruger,

Mr. De Lancey,

Mr. Wallace,

Mr. Apthorp,

Mr. White,

Mr. Morris,

Mr. Axtell.

His Excellency laid before the Board the draft of a commission authorizing Alexander Colden, Esquire, Surveyor General of this Province, by himself or his sufficient

Deputy, in conjunction with the Surveyor General already or which shall hereafter be appointed on the part of the Colony of Quebec, to run, mark, ascertain, and distinguish the partition line between the said two Provinces, as far as each respective Province extends. And the draft being read, and a clause added thereto, enjoining the Surveyor General or his Deputy to observe and perform such instructions as shall be given by the Governor or Commander in Chief for the time being,

The same was approved of, and Ordered that the same pass the Great Seal accordingly.

At a Council held at Johnson's Hall, in the county of Tryon, on Wednesday the twenty-ninth day of July, 1772,

29th July, 1772

Present,

His Excellency William Tryon, Captain General, &c. &c.

The Honorable Sir William Johnson, Baronet,

Mr. De Lancey,

Mr. White.

His Excellency next laid before the Board a letter he had received from Thomas Valentine, dated the River Le Cole, 11th July, 1772, in the following words:

May it please your Excellency:

We set out from Quebec the 20th of June, took the stores we wanted from Three Rivers, called at St. Francois in our way with intent to send part of our provisions up that River, but received information that we could as easily transport them up Missiskoi river, which we rather chose, as it is not safe to intrust them in the hands of savages.

We depart hence immediately and hope to be able to complete in two months if no accident happens: And if your Excellency proposes to have the Line continued to the river Saint Lawrence, it can be done this fall at a much less expense than if postponed to another season. I expect your instructions by the time we return,

And am your Excellency's

Most obedient humble servant,

THOS. VALENTINE.

And desired the opinion of the Council whether they thought it advisable to give instructions to the said Valentine, in conjunction with the Surveyor from Quebec, after having run the line eastward to Connecticut river, to return to Point Moore, the place of beginning, and extend the division Line between the two Governments until it should intersect the river Saint Lawrence in the forty-fifth degree of Northern Latitude; His Excellency at the same time observing to the Board that he considered the running of the division line to the westward, as a very necessary and essential service to Government; and that he was willing to advance the money on the faith of the public for carrying the same into execution. Whereupon the Council humbly advised the running of the partition line to the river Saint Lawrence as a measure highly proper and necessary for ascertaining and establishing the Boundaries between this Government and that of Quebec.

At a Council held at Fort George, in the City of New York, on Friday the twenty-first day of August, 1772,

His Excellency William Tryon, Esquire, Captain General, &c.

Mr. Horsemanden,

Mr. Smith,

Mr. Watts,

Mr. Cruger,

Mr. De Lancey,

Mr. White,

Mr. Apthorp,

Mr. Axtell.

Appendix.
No. 27.

Extracts from the
Council Minutes
of New York.

21st August, 1772.

The Minutes of the Council held by His Excellency at Johnson Hall in the county of Tryon, on the 29th of July last, being read,

The Board concurs in opinion that it will be a proper measure as soon as the line of partition between this Province and Quebec shall be run from Lake Champlain to Connecticut river, for His Excellency to direct the Surveyors on the part of both Provinces to return to Point Moore, the station fixed on the East side of Lake Champlain, and to extend the division line between the two Governments, until it shall intersect the river St. Lawrence in the forty-fifth degree of Northern Latitude.

December 16, 1772.

16th Dec. 1772.

His Excellency communicated to the Board a letter of the 12th November last, from Mr. Thomas Vallentine, employed as a Surveyor on the part of this Province for running the partition line between this Colony and Quebec, from Lake Champlain to Connecticut river informing His Excellency that the Surveyors of the two Provinces finished the survey on the 30th of September; that they found the distance from Lake Champlain to the place where the line terminates on Connecticut river, to be about ninety miles and a quarter; that he arrived at Quebec the 18th of October, and that as he is of opinion the continuing the line westward will be effected with far less expense during the winter or early in the Spring, than in the summer season, he intends not to risk the passage on the Lake but to remain at Quebec for his Excellency's farther directions.

Whereupon the Board humbly advised His Excellency to signify to Governor Cramah, the opinion of this Government, that it will be for the mutual interest of both Provinces to complete their boundary Line as soon as the season will permit, by extending the Line already run, from Lake Champlain westward, until it shall intersect the river St. Lawrence in the forty-fifth degree of Northern Latitude. That if this proposal meets with his approbation, it is conceived the service will be best performed by the same Surveyors; but that if any thing should prevent Mr. Collins from attending, Mr. Vallentine has instructions to proceed in conjunction with such other Surveyor as shall be appointed on the part of Quebec. And that this Province will cheerfully delay its proportionable part of this necessary expense.

His Excellency also communicated to the Board a letter from John Collins, Esquire, Deputy Surveyor of the Province of Quebec, dated on Connecticut River the first of October last, acquainting his Excellency that they had on that day fixed the boundary of the division Line between this Province and that of Quebec, on the west bank of Connecticut river, two miles and fifty chains on a direct line above the mouth of a small river falling in on the west side of Connecticut river, known by the name of Hall's Brook, and called by the Indians Kenebimosikek, at the distance of ninety miles and twenty chains from the eastern bank of Lake Champlain; and signifying that His Excellency may depend the greatest accuracy and care had been observed through the course of this survey.

April 5, 1773.

5th April, 1773.

His Excellency also communicated a letter of the 10th March last, from Lieutenant Governor Cramah, of Quebec, acquainting His Excellency that His Majesty's Council of that Government were unanimously of opinion that the Boundary Line between the two Governments should be run and distinguished from Lake Champlain to the river Saint Lawrence, as had been proposed by this Province, and that the Surveyors were accordingly to proceed on that work the beginning of June.

At a Council held at Fort George, in the City of New York, on Wednesday the first day of December, 1773, *Appendix.*
No. 27.

Present,

His Excellency William Tryon, Esquire, Captain General, &c.

Mr. Watts,

Mr. White,

Mr. De Lancey,

Mr. Cruger.

Extracts from the
Council Minutes
of New York.

1st Dec. 1773

Mr. Smith.

His Excellency laid before the Board a Journal of the proceedings of John Collins, Esquire, Surveyor on the part of the Province of Quebec, and Claude Joseph Southier, Esquire, Surveyor appointed on the part of this Province, for running the Line between the Government of New York and Quebec westward from Lake Champlain in the Latitude of forty-five North to the River St. Lawrence, with a chart or map of the said Line as far as the same is run. As also a Letter from Mr. Collins dated at Montreal the 22d October last, acquainting His Excellency that the wet season, which continued many days, prevented their completing the survey: That they had advanced fifty miles west of Lake Champlain, when they found themselves in want of provisions, and the means they made use of to obtain fresh supplies disappointed, and that he is of opinion the distance left unsurveyed, does not exceed ten miles.

STATE OF NEW YORK,

Secretary's Office.

I certify the preceding to be true extracts from the Minutes of the Council of the late Colony of New York, remaining in this office.

J. V. N. YATES,

Secretary.

APPENDIX, No. XXVIII.

COPY OF A PATENT

TO

EDMUND FANNING AND OTHERS.

DATED FEBRUARY 16, 1775.

Appendix.
No. 28.

Grant to Edmund
Fanning and others.—16th February,
1775

George the Third by the Grace of God of Great Britain France and Ireland King Defender of the Faith and so forth To all to whom these Presents shall come Greeting Whereas our loving subject David Mathews in Behalf of himself and nineteen other Persons his Associates whose names were mentioned in the Schedule to their Petition subjoined to wit Johnston Fairholme, Peter Middleton, John Grumly, John Reid, Samuel Stephens, William Bruce, Robert Rogers, Andrew Elliot, James Duane, William Bayard, Edmund Fanning, Benjamin J. Johnson, John Hooges, Moses Marden, Joshua Littlewood, Malcolm McIsaac, Christopher Blundell, Isaac Willet Junior and James Rivington by his humble Petition presented unto our trusty and well beloved William Tryon Esquire our Captain General and Governor in Chief of our Province of New York and Read in our Council for our said Province on the nineteenth Day of May which was in the year of our Lord one thousand seven hundred and seventy two did set forth That the Petitioner had discovered a certain Tract of Land which was vacant and vested in us situate lying and being on the Northwesterly side of Connecticut River in the County of Gloucester Beginning on the northwesterly Bank of the said River at the northeasterly Corner of the most Northernmost tract of Land pretended to be granted by our Government of New Hampshire Westward of the said River Connecticut commonly called and known by the name of Limington and extending up the said River on a streight Line about three or four hundred chains; Thence into the Woods Westerly or Northwesterly about six hundred and forty chains, Thence Southerly and Easterly so far as would include twenty thousand Acres of Land and the usual allowance for Highways, And that the said Tract of Land had never been granted by our Province of New Hampshire or Located by any prior Petition and therefore the Petitioner in behalf of himself and his Associates did humbly pray that our said Captain General and Governor in Chief would be favourably pleased to grant unto the Petitioner and his Associates the Tract of Land afore described and that the same might be erected into a Township by the name of Thirning and vested with the usual Privileges granted to other Townships within our said Province Which Petition having been then referred to a Committee of our Council for our said Province our said Council did afterwards on the Fifteenth day of June then following in Pursuance of the Report of the said Committee humbly advise and consent that our said Captain General and Governor in Chief should by our Letters Patent grant to the said Petitioner and his Associates and their Heirs the Lands prayed for and described in the said Petition so as not to interfere with any prior Location or Petition or any Grant under our Government of New Hampshire And Whereas the said Edmund Fanning and Moses Marden two of the Associates

named in the afore recited Petition of the said David Mathews by their humble Petition presented unto our trusty and well beloved Cadwallader Colden Esquire our Lieutenant Governor and Commander in Chief of our said Province of New York and the Territories depending thereon in America and read in our Council for our said Province on the Eighth Day of this Instant Month of February did set forth, That upon a former Application the Petitioners obtained an Order of our said Council for granting to them Twenty thousand acres of vacant Land within our said Province for which the Petitioners had procured a Survey and Return that several of the Persons who were the Petitioners former Associates are either dead or removed out of the said Province to wit Benjamin J. Johnson, John Hodges, Joshua Littlewood, Malcom Melsaac, and John Grumly And did therefore most humbly pray that instead of the names of the Persons who are so dead or removed, the names of Samuel Avery, John Peters, James Cobham, William Kennedy and Samuel Boyer might be inserted in our Letters Patent for the Lands so advised to be granted and surveyed as aforesaid Which Petition having been read as aforesaid On due Consideration thereof our Council for our said Province did humbly Advise our said Lieutenant Governor and Commander in Chief that the names of the said Samuel Avery, John Peters, James Cobham, William Kennedy and Samuel Boyer be inserted in our Letters Patent for the said Tract of Land in the Room and stead of the names of the Persons who are so dead or removed out of our said Province In Pursuance whereof and in obedience to our Royal Instructions our Commissioners appointed for the setting out all Lands to be granted within our said Province have set out for the said Edmund Fanning and Moses Marden and their Associates to wit David Mathews, Johnston Fairholme, Peter Middleton, John Reid, Samuel Stephens, William Bruce, Robert Rodgers, Andrew Elliot, James Duane, William Bayard, Christopher Blundell, Isaac Willet Junior, James Rivington, Samuel Avery, John Peters, James Cobham, William Kennedy and Samuel Boyer *All that certain Tract or Parcel of Land situate lying and being on the west side of Connecticut River in the County of Gloucester Beginning at a certain Place on the West Bank of the said River reputed to be the North-east Corner of a Tract of Land granted by our late Governor of our Province of New Hampshire and called Lemington which Place is Five hundred and nine chains on a straight line below a certain Cedar Post set up on the West Bank of the said River in the Year one thousand seven hundred and seventy two by John Collins and Thomas Valentine at the Place where the Line run by them from the Point of Forty five Degrees of Northern Latitude on Lake Champlain intersects the said River and this Tract runs from the said place of beginning up along the said River as it winds and turns to the Cedar Post aforesaid and thence along the said Line run by John Collins and Thomas Valentine North Eighty-one Degrees West seven hundred and nine Chains; thence South nine Degrees West Four hundred and Thirty-three Chains, and thence South Eighty-one Degrees East Four hundred and forty Chains to the Place where this Tract first began Containing Twenty thousand Acres of Land and the usual allowance for Highways And in setting out the said Tract or Parcel of Land our said Commissioners have had regard to the profitable and unprofitable acres and have taken care that the Length thereof doth not extend along the Banks of any River otherwise than is conformable to our said Royal Instructions As by a Certificate thereof under their Hands bearing date the Thirteenth Day of this Instant Month of February and entered on Record in our Secretary's Office for our said Province of New York may more fully appear. Which said Tract of Land set out as aforesaid according to our said Royal Instructions We being willing to grant to the said Edmund Fanning and Moses Marden and their Associates their Heirs and Assigns forever with the several Privileges and Powers hereinafter mentioned Know Ye, That of our especial Grace certain Knowledge and*

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Grant to Edmund Fanning and others.—16th February, 1775.

Appendix,
No. 23.

Grant to Edmund
Faanning, and oth-
ers.—Pub. Febru-
ary, 1775.

meer motion We have given granted ratified and confirmed And do by these Presents for Us our Heirs and Successors give grant ratify and confirm unto them the said Edmund Faanning, Moses Marden, David Mathews, Johnston Fairholme, Peter Mid-dieton, John Reid, Samuel Stevens, William Bruce, Robert Rogers, Andrew Elliot, James Duane, William Bayard, Christopher Blundell, Isaac Willet Junior, James Rivington, Samuel Avery, John Peters, James Cobham, William Kennedy and Samuel Boyer their Heirs and Assigns forever All that the Tract or Parcel of Land aforesaid set out abutted bounded and described in manner and Form as above mentioned, Together with all and singular the Tenements, Hereditaments, Emolu-ments and Appurtenances thereunto belonging or appertaining And also all our Estate, Right, Title, Interest, Possession, Claim and Demand whatsoever of in and to the same Lands and Premises and every part and Parcel thereof and the Rever-sion and Reversions, Remainder and Remainders, Rents, Issues and Profits thereof and of every Part and Parcel thereof Except and always reserved of this our present Grant unto Us, our Heirs and Successors forever all Mines of Gold and Silver And also all White or other Sorts of Pine Trees fit for Masts of the Growth of Twenty-four Inches Diameter and upwards of Twelve Inches from the Earth for Masts for the Royal Navy of Us, our Heirs and Successors To have and to hold one full and equal Twentieth Part (the whole into Twenty equal parts to be divided) of the said Tract or Parcel of Land, Tenements, Hereditaments and Premises by these Presents granted ratified and confirmed and every Part and Parcel thereof with their and every of their appurtenances (except as is herein before excepted) unto each of them our Grantees above mentioned their Heirs and Assigns respectively, To their only proper and separate Use and Behoof respectively for ever as Tenants in Com-mon and not as Joint Tenants To be holden of us our Heirs and Successors in free and common socage as of our Manor of East Greenwich in our County of Kent within our Kingdom of Great Britain Yielding rendering and paying therefore Yearly and every Year for ever unto Us, our Heirs and successors at our Custom House in our City of New York unto our or their Collector or Receiver General there for the Time being on the Feast of the Annunciation of the Blessed Virgin Mary commonly called Lady Day the Yearly Rent of Two Shillings and Six Pence Sterling for each and every Hundred Acres of the above granted Lands and so in proportion for any lesser Quantity thereof saving and except for such Part of the said Lands allowed for Highways as above mentioned in Lieu and Stead of all other Rents, Services, Dues, Duties, and Demands whatsoever for the hereby granted Lands and Premises or any Part thereof And We do of our especial Grace certain Knowledge and meer Motion create, erect and constitute the Tract or Parcel of Land herein granted and every Part and Parcel thereof a Township for ever hereafter to be continue and remain and by the name of Thirming for ever here-after to be called and known And for the better and more easily carrying on and managing the Public Affairs and Business of the said Township Our Royal Will and Pleasure is And We do hereby for Us, our Heirs and Successors give and grant to the Inhabitants of the said Township all the Powers, Authorities, Privileges and Advantages heretofore given and granted to or legally enjoyed by all any or either our other Townships within our said Province of New York And We also Ordain and Establish That there shall be forever hereafter in the said Township Two Assessors, one Treasurer, Two Overseers of the Highways, Two Overseers of the Poor, one Collector and Four Constables elected and chosen out of the Inhabitants of the said Township Yearly and every Year on the third Tuesday in May at the most Public Place in the said Township by the Majority of the Freeholders thereof then and there met and assembled for that Purpose Hereby declaring, That wheresoever the first Election in the said Township shall be held the future Elections shall for

ever thereafter be held in the same Place as near as may be, and giving and granting to the said Officers so chosen Power and Authority to exercise their said several and respective offices during one whole Year from such Election and until others are legally chosen and elected in their Room and Stead as fully and amply as any the like officers have or legally may use or Exercise their Officers in our said Province of New York And in case any or either of the said Officers of the said Township should die or remove from the said Township before the Time of their Annual Service shall be expired or refuse to Act in the offices for which they shall respectively be chosen, Then our Royal Will and Pleasure further is And We do hereby Direct, Ordain, and Require the Freeholders of the said Township to meet at the Place where the Annual Election shall be held for the said Township and choose other or others of the said Inhabitants of the said Township in the Place and Stead of him or them so dying, removing or refusing to Act within Forty Days next after such contingency And to prevent any undue Election in this Case We do hereby Ordain and Require That upon every Vacancy in the Office of Assessors, the Treasurer, and in either of the other Offices the Assessors of the said Township shall within Ten Days next after any such Vacancy first happens appoint the Day for such Election and give public Notice thereof in Writing under his or their Hands by affixing such Notice on the Church Door or other most public Place in the said Township at the least Ten Days before the Day appointed for such Election And in Default thereof We do hereby require the Officer or Officers of the said Township or the Survivor of them who in the Order they are herein before mentioned shall next succeed him or them so making Default within Ten Days next after such Default to appoint the Day for such Election and give public Notice thereof as aforesaid; Hereby giving and granting that such person or Persons as shall be so chosen by the Majority of such of the Freeholders of the said Township as shall meet in manner hereby directed shall have hold exercise and enjoy the Office or Offices to which he or they shall be so elected and chosen from the Time of such Election until the third Tuesday in May then next following and until other or others be chosen in his or their Place and Stead as fully as the Person or Persons in whose Place he or they shall be chosen might or could have done by Virtue of these Presents. And We do hereby Will and Direct, That this method shall for ever hereafter be used for the filling up all Vacancies that shall happen in any or either of the said Offices between the Annual Elections above directed. Provided always and upon Condition nevertheless That if our said Grantees their Heirs or Assigns or some or one of them shall not within three Years next after the date of this our Present Grant settle on the said Tract of Land hereby granted so many Families as shall amount to one Family for every thousand acres of the same Tract; Or if they our said Grantees or one of them their or one of their Heirs or Assigns shall not also within three Years to be computed as aforesaid plant and effectually cultivate at the least three Acres for every Fifty Acres of such of the hereby granted Lands as are capable of Cultivation; Or if they our said Grantees or any of them their or any of their Heirs or Assigns or any other person or persons by their or any of their privity consent or procurement shall fell cut down or otherwise destroy any of the pine trees by these presents reserved to us our heirs and successors or hereby intended so to be without the Royal Licence of us our heirs or successors for so doing first had and obtained that then and in any of these cases this our present Grant and every thing therein contained shall cease and be absolutely void and the lands and premises hereby granted shall revert to and vest in us our heirs and successors as if this our present grant had not been made any thing herein before contained to the contrary in any wise notwithstanding. Provided further and upon condition also nevertheless and we do hereby for us our

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No. 28.

Grant to Edmund
Fanning and others
—16th February,
1775.

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Grant to Edmund
Fanning and others — 16th February, 1775

heirs and successors direct and appoint that this our present grant shall be registered and entered on record within Six Months from the date thereof in our Secretary's Office in our City of New York in our said Province of New York in one of the books of patents there remaining and that a docquet thereof shall be also Entered in our Auditor's Office in and for our said Province of New York and that in default thereof this our present Grant shall be void and of none effect any thing before in these presents contained to the contrary thereof in any wise notwithstanding. And We do moreover of our Especial grace certain knowledge and meer motion consent and agree that this our present grant being registered recorded and a Docquet thereof made as before directed and appointed shall be good and effectual in the law to all intents constructions and purposes whatsoever against us our heirs and successors notwithstanding any misreciting misbounding misnaming or other imperfection or omission of in or in any wise concerning the above granted or hereby mentioned or intended to be granted lands tenements hereditaments and premises or any part thereof. In Testimony whereof We have caused these our Letters to be made patent and the Great Seal of our said Province of New York to be hereunto affixed. Witness our said trusty and well beloved Cadwallader Colden Esquire our said Lieutenant Governor and Commander in Chief of our said Province of New York and the territories depending thereon in America at our fort in our City of New York the sixteenth day of February in the year of our Lord one thousand seven hundred and seventy-five and of our reign the fifteenth.

CLARKE.

STATE OF NEW-YORK,
Secretary's Office.

I certify the preceding to be a true copy of Certain Letters patent as of record in this office, in Book of Patents, No. 16, page 526, &c.

In testimony whereof, I have hereunto affixed the Seal of this Office, at the
[L. s.] City of Albany, the 30th day of September, 1828.

ARCH'D CAMPBELL,
Dep. Secretary.

By Nathaniel Pitcher, Lieutenant Governor of the State of New York, acting as Governor of the said State:

It is hereby certified that the preceding copy is attested in due form, and by the proper officer.

In testimony whereof, I have hereunto affixed the Great Seal of this State.
[L. s.] Witness my hand, at the City of Albany, the 30th day of September, 1828.

NATHANIEL PITCHER.

APPENDIX, No. XXIX.

GRANTS OF LAND

BY

THE STATE OF NEW YORK.

viz:

Grant by Letters Patent of the State of New York, to J. Deane and others, 1785.
Grant by Letters Patent of the State of New York, to F. Turcot, 18th January, 1790.
Grant by Letters Patent of the State of New York, to C. Gosline, 18th January, 1790.
Certificate relative to grants of land along the Canada Line.

COPY

OF LETTERS PATENT TO JAMES DEANE AND OTHERS, 1785.

THE People of the State of New York By the Grace of God Free and Independent, To all to whom these Presents shall come Greeting. Whereas Mark Greaves, Levi Smith, Ichabod Tubbs, Horace Shepherd, George Houseman, David Doolittle, George Inglis Peter Welsh, David Perry, Eliphalet Kellog, Jesse Pardy, James Degolier, Gotlep Peter, Christian Fulmer, Elnathan Rogers, Oliver Deake, Mason Deake Samuel Ashman, Robert Ayres, Asa Hamlin, Abraham Knap, Daniel Bedwell, Levi Stoughton, Pliny Moor, and James Deane have in pursuance of the Second Section of an act entitled “An Act for granting certain Lands promised to be given as Bounty Lands by Laws of this State and for other purposes therein mentioned” passed the 11th day of May 1784 obtained from Simeon Delbitt Esquire our Surveyor General a certificate that they are entitled to a certain Tract of Land therein mentioned and described and which certificate is in the words and figures following—Surveyor Generals Office Albany 8th July, 1785. I do hereby certify That Mark Greaves Levi Smith, Ichabod Tubbs, Horace Shepherd, George Houseman David Doolittle, George Inglis, Peter Welsh, David Perry, Eliphalet Kellog, Jessie Pardy James Degolier, Gotlep Peter, Christian Fulmer, Elnathan Rogers, Oliver Deake, Mason Deake, Samuel Ashman, Robert Ayres, Asa Hamlin Abraham Knap Daniel Bedwell Levi Stoughton, Pliny Moor and James Dean by virtue of the Act entitled “An Act for raising two Regiments for the defence of this State on Bounties of unappropriated Lands passed March the 20th 1781, and An Act entitled An Act for raising Troops to complete the Line of this in the Service of the United States and the two Regiments to be raised on Bounties of unappropriated Lands and for the further defence of the frontiers of this State passed March the 23d 1782 and in consequence of a Location made agreeable to the said Acts and Certificates lodged in this office properly authenticated are entitled to a tract of Land on the West Side of Lake Champlain, *Beginning at a Beach tree marked 3 M 16 March 1785 Standing on the parallel of forty five degrees of North Latitude at the distance of three miles measured on a course North Eighty two degrees West by the Needle from the monument Stone on the West bank of Lake*

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Grants by the
State of N. York.
To James Deane
and others, 1785.

Appendix. Champlain on the Side parallel of forty five degrees North Latitude and running from the said place of Beginning South eight degrees West three hundred and forty chains and sixty links into the waters of the Great River Chazy to a point bearing South fourteen degrees West Sixty one links from a black Ash tree standing on the east bank of said river marked 340 chains 60 links 17th March 1785 thence North eighty two degrees West three hundred and forty chains and Sixty links to a black ash Stake in a Cedar Swamp marked 340. 60. 20th March 1785 *thence North eight degrees east three hundred and forty chains and sixty links to a bass-wood tree standing on the said parallel of forty five degrees North Latitude* thirty five chains from the north bank of the said River Chazy marked 340. 60. 21 March 1785 and *thence South eighty two degrees east along said parallel three hundred and forty chains* and Sixty links to the place of Beginning Containing eleven thousand six hundred acres And I do further Certify that the said Tract of Land is laid out in a square that the same is not to the best of my belief and information granted to or located by any person prior to the Location above mentioned by virtue of any of the before recited Acts that it was not occupied or improved by any person on or before the 25th day of July in the year one thousand seven hundred and eighty two and that it is no part of the land reserved to the use of the People of this State Simeon De Witt Surveyor Genl. as by the said Certificate directed to his Excellency Governor Clinton and the Honorable the Commissioners of the Land Office and filed in our Secretary's Office reference being thereunto had will appear. And whereas a Caveat has been entered by Udny Hay before our Commissioners of our Land Office in behalf of the Canadian and Nova Scotia Refugees against granting the said lands in the above recited Certificate described to the said Mark Greaves and the other persons therein named and the day appointed for hearing the Parties on the said Caveat having elapsed with the said Udny Hay or any other person appearing to support the said Caveat and our said Commissioners of our said Land Office having thereupon determined that the said Mark Greaves and the other persons in the said above recited Certificate named are entitled to a grant of the land therein described. Now therefore Know Ye that we have given, granted and confirmed and by these presents do give grant and confirm unto the said Mark Greaves, Levi Smith, Ichabod Tubbs, Horace Shepherd, George Houseman, David Doolittle, George Inglis, Peter Welsh, David Perry, Eliphalet Kellog, Jesse Pardy, James Degolier, Gotlep Peter, Christian Fulmer, Elnathan Rogers, Oliver Deake, Mason Deake, Samuel Ashman Robert Ayres, Asa Hamlin, Abraham Knap Daniel Bedwell, Levi Stoughton, Pliny Moor and James Dean their Heirs and Assigns all and Singular the aforesaid Tract of Land in the said Certificate of our said Surveyor General mentioned and described as is herein before particularly recited and set forth with all the appurtenances and privileges to the same belonging or in any wise appertaining (Excepting and reserving to ourselves all Gold and Silver mines and Salt mines and Salt Springs within the Same. To Have and to hold the above granted premises as a good and indefeasible Estate in fee simple forever On Condition nevertheless that the said Mark Greaves Levi Smith Ichabod Tubbs Horace Shepherd, George Houseman, David Doolittle, George Inglis, Peter Welsh, David Perry, Eliphalet Kellog, Jesse Pardy, James Degolier, Gotlep Peter, Christian Fulmer Elnathan Rogers, Oliver Deake, Mason Deake, Samuel Ashman Robert Ayres, Asa Hamlin, Abraham Knap, Daniel Bedwell, Levi Stoughton, Pliny Moor and James Dean their Heirs or Assigns do settle or cause to be settled as many settlers on the said Land in three years from the date of these presents as there are six hundred acres within the same. In Testimony whereof we have made these our Letters Patent and caused the Great Seal of our State to be affixed. Witness our Trusty and Well-beloved George Clinton Esquire Governor of our said State. Done at our City of New York the fifth day of November in the Year of our Lord one thousand seven hundred and eighty five and in the tenth year of our Independence.

GEO: CLINTON.

No. 29.

Grants by the
State of N York.
To James Deane
and others, 1785.

The preceding was recorded at the request of the within named Pliny Moor; and between the eleventh and twelfth lines of this Patent, in page 140, the words *and figures*, and between the second and third lines of this page the words *Salt mines and*, being respectively interlined, the same agrees with the original—Examined and compared therewith by me

Appendix.
No. 29.
Grants by the
State of N. York.
To JAMES DEANE
and others, 1753.

ROBT. HARPUR,
Deputy Secretary.

STATE OF NEW YORK,
Secretary's Office.

I certify the preceding to be a true Copy of certain Letters patent as of record in this office, in Book of Patents No 17, page 140, &c.

In Testimony whereof I have hereunto affixed the Seal of this Office, at
[L. s.] the City of Albany, the 28th day of September, 1828.

ARCH'D. CAMPBELL,
Deputy Secretary.

By Nathaniel Pitcher, Lieutenant Governor of the State of New York, acting as Governor of the said State:

It is hereby certified that the preceding copy is attested in due form, and by the proper officer.

In Testimony whereof I have hereunto affixed the Great Seal of this
[L. s.] State. Witness my hand, at the City of Albany, the 30th day of September, 1828.

NATHANIEL PITCHER.

COPY

OF LETTERS PATENT TO F. TURCOT, DATED JANUARY 18, 1790

The People of the State of New York, by the Grace of God Free and Independent,
To all to whom these Presents shall come, Greeting:

Know ye, that We have given, granted, and confirmed, and by these Presents Do give, grant and confirm unto Francis Turcot, all those two certain tracts of land (being parts of a larger tract situate in the County of Clinton set apart by laws of this State for the Canadian and Nova Scotia Refugees,) known and distinguished in a Map and return of the said larger tract, filed by our Surveyor General in our Secretary's Office, by lots numbered one hundred and eighty five and *ninety seven*: Which said lot numbered one hundred and eighty-five begins at the south-east corner of lot number one hundred and eighty-four, and runs thence north eighty-two degrees west sixty four chains and eighty links, then south eight degrees west sixty-four chains and eighty links, then south eighty two degrees east sixty-four chains and eighty links, and then north eighty degrees east sixty-four chains and eighty links to the place of beginning; containing four hundred and twenty acres: And *which said lot number Ninety-Seven begins at the north-west corner of Lot number sixty-seven, on the Latitude line of forty five degrees north, and runs thence North eighty-two degrees West seventy-eight chains and fifty links, to a Patent of Land granted to James Dean and others, then south eight degrees west ten chains and twenty links, then South eighty-two degrees East seventy-five chains and forty links, to the West bounds of Lot number Sixty Eight, then along the West and North Bounds of Lot Number sixty-eight and the West Bounds of Lot Number Sixty-Seven to the place of Begin-*

To F. Turcot, 1790

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No. 29.

Grants by the
State of N. York.
To F Tuicot, 1790.

ning, containing eighty Acres: The said two Tracts together containing five hundred Acres, together with all and Singular the Rights, Hereditaments and Appurtenances to the same belonging or in any wise appertaining, Excepting and Reserving to ourselves all Gold and Silver mines, and five acres of every hundred Acres of the said Tract of Land for Highways: To Have and To Hold the above described and granted premises unto the said Francis Tuicot, his Heirs and Assigns, as a good and indefeasible Estate of Inheritance forever: On Condition Nevertheless that, within the term of seven years, to be computed from the first day of January next ensuing the date hereof, there shall be one actual settlement made on the said Tract of Land hereby granted, otherwise these our Letters Patent, and the Estate hereby granted, shall cease, determine, and become void.

In Testimony whereof, We have caused these our Letters to be made Patent, and the Great Seal of our said State to be hereunto affixed. Witness our Trusty and Well Beloved George Clinton, Esquire, Governor of our said State, General and Commander in Chief of all the Militia, and Admiral of the Navy of the Same, at our City of New York, this eighteenth day of January, in the Year of our Lord one thousand seven hundred and ninety, and in the Fourteenth year of our Independence. Approved of by the Commissioners of the Land Office and passed the Secretary's Office the 18th day of January, 1790.

GEO: CLINTON.

ROB'T HARPUR,
Dep. Secretary.

STATE OF NEW YORK,
Secretary's Office.

I certify the preceding to be a true copy of certain Letters Patent, as of record in this office, in Book of Patents No 22, page 42.

In testimony whereof, I have hereunto affixed the Seal of the Office, at
[L. s.] the City of Albany, the 30th day of September, 1828.

ARCHIBALD CAMPBELL,
Dep. Secretary.

By Nathaniel Pitcher, Lieutenant Governor of the State of New York, acting as Governor of the said State:

It is hereby certified that the preceding copy is attested in due form, and by the proper officer.

In testimony whereof, I have hereunto affixed the Great Seal of this
[L. s.] State. Witness my hand, at the City of Albany, the 30th day of September, 1828.
NATHANIEL PITCHER.

COPY

OF LETTERS PATENT TO CLEMENT GOSLINE, DATED JANUARY 18, 1790.

The People of the State of New York, by the Grace of God Free and Independent,
To all to whom these Presents shall come, Greeting:

To Clement Gosline, 1790.

Know ye, that we have given, granted and confirmed, and by these Presents Do Give, Grant, and Confirm unto Captain Clement Gosline, all those two certain Tracts of Land (being parts of a larger tract situate in the County of Clinton, set apart by laws

of this State for the Canadian and Nova Scotia refugees) known and distinguished in a Map and return of the said larger tract filed, by our Surveyor General in our Secretary's Office, by Lots numbered *Sixteen* and twenty-seven. The said lot number *Sixteen* Beginning in the Latitude forty-five, in the South Bounds of the Province of Quebec, at the North-West corner of a Tract of eleven thousand six hundred acres, granted to James Dean and others, and runs thence along the said bounds of the Province of Quebec, North eighty two degrees west sixty-four chains and eighty links, then south eight degrees west sixty four chains and eighty links, then south eighty-two degrees east sixty-four chains and eighty links, and then north eight degrees east sixty-four chains and eighty links, to the place of beginning; containing four hundred and twenty acres; and the said Lot number twenty seven, beginning at the north-east corner of Lot number twenty-six, and runs thence west seventy-nine chains and eighty links, then North ten chains, then east eighty chains and twenty links to the Lake, then southerly along the lake to the place of beginning, containing eighty acres; the said two tracts together containing five hundred acres of land, together with all and singular the Rights, Hereditaments, and Appurtenances to the same belonging or in any wise appertaining: Excepting and reserving to ourselves all gold and silver mines, and five acres of every hundred acres of the said Tract of Land for Highways: To have and to hold the above described and granted premises unto the said Captain Clement Gosline, his heirs and assigns, as a good and indefeasible estate of Inheritance forever: On Condition Nevertheless that within the term of seven years, to be computed from the first day of January next ensuing the date hereof, there shall be one actual settlement made on the said tract of land hereby granted, otherwise these Letters Patent and the estate hereby granted, shall cease, determine, and become void.

In Testimony Whereof, We have caused these our Letters to be made Patent and the Great Seal of our said State to be hereunto affixed. Witness our Trusty and Well Beloved George Clinton, Esquire, Governor of our said State, General and Commander in Chief of all the Militia, and Admiral of the Navy of the same, at our City of New York, this eighteenth day of January, in the year of our Lord one thousand seven hundred and ninety, and in the fourteenth year of our Independence. Approved of by the Commissioners of the Land Office, and passed the Secretary's Office the 18th day of January, 1790.

ROB'T HARPUR, *Dep. Secretary.*

GEO: CLINTON.

STATE OF NEW YORK,
Secretary's Office.

I certify the preceding to be a true copy of certain Letters Patent as of record in this office, in Book of Patents No. 22, page 21.

In testimony whereof, I have hereunto affixed the Seal of this office,
[L. s.] at the City of Albany, the 30th day of September, 1828.

ARCHIBALD CAMPBELL,
Dep. Secretary.

By Nathaniel Pitcher, Lieutenant Governor of the State of New York, acting as Governor of the said State:

It is hereby certified that the preceding copy is attested in due form, and by the proper officer.

In testimony whereof, I have hereunto affixed the Great Seal of this State. Witness my hand, at the City of Albany, the 30th day of September, 1828.
[L. s.] NATHANIEL PITCHER.

Appendix.
No. 29.
Grants by the
State of N. York.
To Clement Gos-
line, 1790.

Appendix.
No. 29.

Grants by the
State of New York.
Certificate relative
to grants of land
along the Canada
line.

CERTIFICATE

RELATIVE TO GRANTS OF LAND ALONG THE CANADA LINE.

STATE OF NEW YORK,
Secretary's Office.

I Certify that it appears by the records in this office that all the Lands from Lake Champlain to the *River St. Lawrence adjacent to the Northern Boundary of the State, along the forty-fifth parallel of North Latitude*, viz: the boundary between the provinces of *New York and Quebec*, as the same was actually surveyed and established before the year one thousand seven hundred and seventy-five, by order of the two provinces and in conformity with the agreement between them, confirmed and ratified by the *King's Order in Council* of the twelfth day of August, in the year one thousand seven hundred and sixty-eight, have been granted by the State, with the exception only of a *Reservation for the St. Regis Indians*, extending about four miles East from the river St. Lawrence along the said Northern Boundary, and of another tract extending Ninety chains along the said Boundary line, which tract is not yet finally granted, but is, in pursuance of a law of this State, appropriated to make up certain deficiencies in other adjacent grants.

In testimony whereof, I have hereunto affixed the seal of this office, at
[L. s.] the City of Albany, the thirtieth day of September, in the year one thousand eight hundred and twenty-eight.

ARCH'D CAMPBELL,
Dep. Secretary.

By Nathaniel Pitcher, Lieutenant Governor of the State of New York, acting as Governor of the said State:

It is hereby certified that Archibald Campbell, whose name is subscribed to the preceding certificate, is Deputy Secretary of this State, duly commissioned and sworn, and that full faith and credit may and ought to be given to his official acts.

In Testimony whereof I have hereunto affixed the Great Seal of this
[L. s.] State. Witness my hand, at the City of Albany, the 30th day of September, 1828. NATHANIEL PITCHER.

APPENDIX, No. XXX.

CERTIFICATES

FROM THE

SECRETARY OF STATE OF VERMONT,

RELATIVE TO THE

BOUNDARIES OF THE TOWNS OF DERBY AND ALBURGH, AND OF THE GOVERNOR
OF SAID STATE RELATIVE TO GRANTS OF LAND ALONG THE CANADA LINE.

BOUNDARIES

OF THE TOWN OF DERBY IN THE STATE OF VERMONT, AS FIXED BY A CHARTER
DATED 29TH OCTOBER, 1779.

STATE OF VERMONT,

Secretary of State's Office, Oct. 29, 1828.

*Appendix.
No. 30.*

Certificates from
the Secretary of
State of Vermont.
Boundaries of the
town of Derby.

I hereby certify, that on the twenty-ninth day of October, in the year of
our Lord one thousand seven hundred and seventy-nine, the Charter of
[L. s.] the town of Derby was granted by the Legislature of the State of Ver-
mont, as appears by the Records in this Office, and that the boundaries
of said Town of Derby, are described in said Charter, as follows, viz:

“*Beginning at a post on the east side of Lake Mumphremagog, where the South
line of the Province of Quebec strikes the East shore of said Lake, and running
South, eighty two degrees and twenty minutes east, seven miles and a half to a
stake, twenty five links, 175° East from a beech tree, standing in the Province
line marked No. 1. No. 4. October 19, 1785, then South 17° West, five miles and
seven chains to a fir tree marked No. 1. No. 2. No. 3. No. 4, then North 82° and 20
minutes west Six miles and fifty chains, to a hemlock, near the east shore of the
South bay of Lake Mumphremagog marked No 1 No 2 then northerly by the lake
shore to the bounds begun at, containing twenty three thousand and forty acres.*”

In testimony whereof, I hereunto subscribe my name, and have to these Presents
affixed my Seal of Office.

Dated at Montpelier, this twenty-ninth day of October, in the year of our Lord one
thousand eight hundred and twenty-eight.

NORMAN WILLIAMS,
Secretary of State.

Appendix.
No. 30.

Certificates from
the Secretary of
State of Vermont
—
Boundaries of the
town of Derby.

State of Vermont.

I, Samuel C. Crafts, Governor in and over said State, hereby certify, that Norman Williams, whose name is subscribed to the foregoing Certificate, is Secretary of State for said State of Vermont, and that full faith and credit are to be given to his attestations as such. And I further certify, that the Signature of the said Norman Williams to said Certificate, is his own proper hand writing. In testimony whereof, I have caused the Seal of said State to be hereunto affixed.

Dated at Montpelier, in said State, this thirtieth day of October, in the year of our Lord one thousand eight hundred and twenty-eight.

SAMUEL C. CRAFTS.

GEO. B. SHAW, *Secretary.*

BOUNDARIES

OF THE TOWN OF ALBURGH, IN THE STATE OF VERMONT, AS FIXED BY A CHARTER
DATED 23D FEBRUARY, 1781.

STATE OF VERMONT,
Secretary of State's Office, Oct. 29, 1828.

Boundaries of the
town of Alburgh.

I hereby certify, that on the twenty-third day of February, in the year of our Lord one thousand seven hundred and eighty-one, the Charter of the Town of Alburgh was granted by the Legislature of the State of Vermont, as appears by the Records in this Office, and that the boundaries of said Town of Alburgh are described in said Charter as follows, viz:

“Beginning in the forty fifth degree of North Latitude, being the south line of the Province of Quebec and north line of Vermont, at a monument in said line, on the west side of Missisque bay; then Southerly by the lake shore to the South end of the tract of land commonly called the tongue; then northerly by the lake shore, to a monument in the South line of the Province of Quebec and north line of Vermont aforesaid; then east in said line to the bound begun at; then east in said line across Missisque bay and on to the land so far that to turn South, to the northerly line of Highgate, then westerly in the line of Highgate to lake Champlain, then northerly by said lake to the Province line aforesaid, will contain in the two tracts of land including by these lines the contents of twenty three thousand and forty acres of land.”

In testimony whereof, I hereunto subscribe my name, and have to these Present affixed my Seal of Office.

Dated at Montpelier, this twenty-ninth day of October, in the year of our Lord one thousand eight hundred and twenty-eight.

NORMAN WILLIAMS,
Secretary of State.

State of Vermont.

I, Samuel C. Crafts, Governor in and over said State, hereby certify, that Norman Williams, whose name is subscribed to the foregoing Certificate, is Secretary of State of said State of Vermont, and that full faith and credit are to be given to his attestations as such. And I further certify, that the Signature of the said Norman Williams to said Certificate, is his own proper hand writing. In testimony whereof, I have caused the Seal of said State to be hereunto affixed.

Dated at Montpelier, in said State, this thirtieth day of October, in the year of our Lord one thousand eight hundred and twenty-eight.

SAMUEL C. CRAFTS.

GEO. B. SHAW, *Secretary*.

Appendix.
No. 30.

Grants of land
along the Canada
Line

CERTIFICATE

OF THE GOVERNOR OF VERMONT, RELATIVE TO THE LANDS FROM CONNECTICUT RIVER TO LAKE CHAMPLAIN, ADJACENT TO THE NORTHERN BOUNDARY OF THE STATE OF VERMONT, 30TH OCTOBER, 1828.

Samuel C. Crafts, Governor of the State of Vermont.

TO ALL PERSONS WHO SHALL SEE THESE PRESENTS, GREETING:

Know ye, that it appears from the records of this State, that the towns of Canaan, Norton, Holland, Derby, Newport, (formerly Duncansborough) Troy, Jay, Richford, Berkshire, Franklin, (formerly Huntsburgh) Highgate and Alburgh, comprising all the lands from Connecticut River to Lake Champlain, adjacent to the Northern boundary of the State of Vermont, along the forty-fifth parallel of North latitude, (viz: that boundary between the former Provinces of New York and Quebec, as the same had been actually surveyed and established before the year 1775, under the authority of the two Provinces, and in conformity with the agreement between them, and ratified by the King's Order in Council of August 1768.) have been granted and held by virtue either of the Hampshire grants, issued by the former Province of New Hampshire, or by grants by the State of Vermont, subsequent to the year 1776—And that all the said towns have been divided into severalty, and have, with two exceptions, been settled and inhabited for more than twenty years last past.

Certificate from
the Governor of
Vermont.

In testimony whereof, I have caused the seal of said State to be hereunto affixed.

Dated at Montpelier, in said State, this thirtieth day of October, in the year of our Lord, one thousand eight hundred and twenty-eight.

SAMUEL C. CRAFTS.

GEO. B. SHAW, *Secretary*.

APPENDIX, No. XXXI.

MR. BARBOUR'S LIST

WITH

THE EARL OF ABERDEEN'S MARGINAL NOTES.

ACTS,

As "Acts of a Public Nature," demanded by the American Government from that of Great Britain, under the third article of the Convention of the 29th of September, 1827, according to the list sent in by the Envoy of the United States to the Earl of Aberdeen, on the 22d September, 1828.

Appendix.
No. 31.

Mr. Barbour's List of American Evidence, with marginal notes by the Earl of Aberdeen.

No order in Council — See Commissioners of Government in 1784.

Declined as not being "an act of a public nature," according to the terms of the Convention. See Earl of Aberdeen's note to Mr. Barbour, dated 31st October, 1828.

Declined as above

To be sent from New Brunswick to Washington.

1. Grant of Nova Scotia to Sir William Alexander, by James I. presumed to be dated 10th Sept. 1621. Transmitted here-with.
2. The Act of confirmation of said grant by Charles I. presumed to be dated 12th July, 1625. Do.
3. Grant of the Province or County of Maine by Charles 1st to Sir Fernando Gorges (or Georges) presumed to be dated 3d April, 1639. Do.
4. Charter of the Province of Massachusetts Bay in New England, by William and Mary, presumed to be dated October 7th, 1691. Do.
5. Order in Council or other Act of the Crown, by which Nova Scotia, which had been part of Massachusetts' Bay, was not long after the Treaty of Utrecht, separated from Massachusetts, and erected into a separate Government.
6. Report of the Law Officers of the Crown to the Board of Trade on two questions referred to them, being in substance, whether the Charter of Massachusetts had not become vacated, so far as related to the territory between the Rivers St. Croix and Kennebeck and the Government thereof, and the right to grant lands therein, had not reverted to the Crown. The Report is dated about the year 1730, 31, or 32.
7. The Decision of the Board of Trade or Council on the said Report.
8. The Proclamation of His Britannic Majesty of the 7th of October 1763, erecting in North America the Governments of Quebec, East and West Florida, and for other purposes. Do.
9. Grant by Lord William Campbell, Governor of Nova Scotia, unto William Owen and others, of an Island at Passamaquoddy, called Passamaquoddy Outer Island, containing about 4000 acres, presumed to be dated 30 Sept. 1767, and

To be sent from
N. Brunswick to
Washington.

Grant by Montague Wilmot, Governor of Nova Scotia, to Francis Bernard, Thomas Pownall and others, of a tract of land, containing by estimation about one hundred thousand acres, extending from the head of the Western Branch of the River Cobequid, there called River St. Croix, to the Western Branch of the River Schoodic, bounded by the said Rivers and by the East Bay, and including Moose Island and St. Croix Island, there so called, presumed to be dated 31st of October, 1765.

Appendix.
No. 31.

Mr. Barbour's
List of American
Evidence with
marginal notes by
the Earl of Aber-
deen.

Do. 10. Order for surveying the last mentioned tract of land for the said Governor or Francis Bernard and others.

11. Commission of Richard Phillips as Governor of Nova Scotia in 1719. Transmitted here, with.

Commission of Edward Cornwallis as Governor of Nova Scotia in 1749. Do.

Commission of Henry Ellis as Governor of Nova Scotia in 1761. Do.

Commission of Montague Wilmot as Governor of Nova Scotia in 1763. Do.

Commission of Lord William Campbell, appointed Governor of Nova Scotia in August, 1765. Do.

Commission of Francis Legge as Governor of Nova Scotia, appointed 2 June, 1773. Do.

Of Sir Andrew Snape Hammond, supposed to bear date anterior to 1783, and the Commissions of the persons who were Governors of Nova Scotia in 1776 and in 1782. Do.

No order in Council.—See commission of Governor Thomas Carleton. 12. Order in Council or other act of the Crown, by which the Province of New Brunswick was erected into a separate Government, about the year 1783, 84, or 85.

13. Commissions of the several Governors and Lieutenant Governors of New Brunswick, viz.

Thomas Carleton, Governor of New Brunswick, presumed to be dated August 16, 1784. Do.

Sir Guy Carleton, Governor of Canada, Nova Scotia and New Brunswick, presumed to be dated April 11, 1786, or May 20, 1786. Do.

Thomas Carleton, Lieut. Governor of New Brunswick, presumed to be dated May 20, 1786. Do.

Major General George Staey Smyth, Lieut. Governor of New Brunswick, presumed to be dated Feb. 1817.

Sir Howard Douglas, Lieut. Governor of New Brunswick, presumed to be dated in August, 1824, and the Commissions of the following persons, who have administered the Government of the Province, as President of the Council (or as President and Commander) during the absence of the Lieut. Governor, or during vacancies, viz:

Gabriel G. Ludlow, from about October 1803 to February 1808.

Edward Winslow, from February to May 1808.

Major General Martin Hunter, from May 1808 to December 1808, from April 1809 to September 1811, from November 1811 to June 1812.

Lieutenant Colonel George Johnstone and Major General William Balfour, respectively, during the two periods of absence of Major General M. Hunter.

Do. Major General George Staey Smyth, (as President and Commander in Chief) from April 9, 1812, to Feb. 28, 1817, when he was appointed Lieutenant Governor.

Do. Major General Sir Thomas Saumarez, from August 1813 to August 1814.

Do. Lieut. Colonel Harris William Hailes, from June 1816 to July 1817.

See G. Ludlow, (Suflra.) Ward Chipman, Esq. from March 1823 to Feb. 1824.

Appendix. John Merry Bliss, from Feb. till August 1824; and also the Commissions of all other persons, who have been at the head of the administration of New Brunswick, as Governors, Lieutenant Governors, Presidents, Commanders in Chief, or by whatever title they may have been distinguished, from the period that New Brunswick was erected into a Distinct Province to the year 1828.

No. 31.
Mr. Barbours
List of American
Evidence with
marginal notes by
the Earl of Aber-
deen.
See G. G. Ludlow.
Supra.

No Order in Coun-
cil. See commis-
sions of Governors
at that period.

14. Any Order in Council, or other act of the Crown that may have defined or altered the boundaries of the Province of New Brunswick, from the period of its erection into a separate Government to the year 1828.

15. Order in Council or other act of the Crown, by which the Province of Quebec was divided into the two separate Provinces or Governments of Upper and Lower Canada.

Transmits
With

No Order in Coun-
cil. See commis-
sions of Governors.

16. Any Order in Council or other act of the Crown, that may have defined or altered the Southern boundary of Lower Canada, from the period of its erection into a separate Province to the present time.

17 to 39 inclusive,
to be sent from
New Brunswick to
Washington.

17. The King's Letters Patent, or other act either of the Crown, or of the Government of Nova Scotia, (prior to New Brunswick being made a distinct Province) establishing or erecting the County of Sunbury, in Nova Scotia.

18. The King's Letters Patent, or act, under the Great Seal of the Province of New Brunswick, witness Thomas Carleton, Captain General and Governor in Chief of the said Province, dated 10th June, 1785, erecting into a separate County a district of Land in the same Province, by the name of the County of Northumberland.

19. The King's Letters Patent or Act (under same seal and attested in same manner) erecting the County of York, in the said Province of New Brunswick, dated 25 July, 1785.

The following acts of the General Assembly of the Province of New Brunswick, viz :

20. An Act passed at the session begun and holden on the 3d day of January, 1780, and intituled "An Act for the better ascertaining and confirming the Boundaries of the several Counties within this Province, and for subdividing them into Towns or Parishes." 26 Geo. 3. c. 1.

21. An Act of 16 March, 1803, in addition to the last mentioned act, (20) 43 Geo. 3. c. 4.

22. An Act of 7th March, 1814, in further addition to the said Act, (20) 54 Geo. 3. c. 17.

23. An Act of 16th March, 1803, intituled "An Act for erecting the upper part of the County of York into a distinct Town and Parish." 43 Geo. 3. c. 5.

24. An Act of 20th March, 1821, intituled "An Act to erect the upper part of the County of York into a Town or Parish." 2 Geo. 4. c. 22.

25. An Act of 7 March, 1826, intituled "An Act for the division of the county of Northumberland into three Counties, and to provide for the Government and representation of the two new Counties." 7 Geo. 4. c. 31.

26. An Act of 8th Feb. 1799, intituled An Act for regulating the fisheries in the County of Northumberland. 39 Geo. 3. c. 5.

27. An Act of 5th March, 1805, intituled An Act to continue sundry Acts of the General Assembly that are near expiring. 45 Geo. 3. c. 19.

28. An Act of 14 March, 1810, intituled "An Act to continue for a limited time an Act passed in the 39th year of H. M's Reign, intituled An Act for regulating the fisheries in the County of Northumberland. 50 Geo. 3. c. 4.

29. An Act of 20 March, 1820, intituled An Act to continue several Acts of the General Assembly that are near expiring. 60 Geo. 3. c. 4. *Appendix. No. 31.*

30. An Act of 27th March, 1823, intituled An Act in further amendment of the Laws for regulating the fisheries in the County of Northumberland. 4 Geo. 4. c. 23. *Mr. Parbour's List of An Act in Evidence with marginal note by the Earl of Aberdeen.*

31. An Act of 11th March, 1816, intituled "An Act for the establishment, regulation and improvement of the great roads of communication through the Province." (56 Geo. 3. c. 22)

32. An Act of 22d March, 1817, intituled An Act to appropriate a part of the public revenue for the services therein mentioned. 57 Geo. 3. c. 11.

33. An Act of 25th March, 1820, intituled An Act to provide for opening and repairing roads and erecting bridges throughout the province, and improving the navigation of certain Rivers therein. 60 Geo. 3. c. 16.

34. An Act of 21 March, 1822, intituled "An Act to repeal all the Laws now in force relating to the Establishment, regulation and improvement of the great roads of Communication thro' the Province, and to make more effectual provision for the same." 3 Geo. 4. c. 31.

35. An Act of 19 March, 1827, intituled "An Act to provide for opening and repairing roads and erecting bridges throughout the Province." 8 Geo. 4. c. 28.

The following grants of Land in the Province of New Brunswick, all apparently held immediately from the Crown, but issued under the seal of the Province and by the Governor, Lieutenant Governor, President, or person administering the Government of the said Province, viz:

36. Grant of a Tract of Land lying at the mouth of Salmon River, where the same empties itself into the River St. John.

37. Grant to Edward J. Man, Jonathan Hoar and Daniel Babbitt, in severalty, of three tracts of land with an Island, containing in the whole about one Thousand and Fifty acres, lying on the south shore of Restigouche River, within the Parish of Alawick, in the County of Northumberland, dated 20 Feb. 1828.

38. Grant to Alexander Stewart of a Tract of Land containing about 300 acres, lying in the Parish of Kent and County of York, on the West side of and along the River St. John, and adjacent to the upper boundary of the reserve for the use of the garrison at the Great Falls, dated 19th January, 1824.

39. Grant to Simon Hebert of a tract of Land, containing about 250 acres, lying on the North East side of and along the River St. John, a short distance from the mouth of the Madawaska River, and described as situated in the Parish of Kent and County of York, in the Province of New Brunswick, dated 16th May, 1825.

40. The indictment, conviction, judgment or sentence, and other proceedings against John Baker, in the Supreme Court of Judicature of New Brunswick, at the May Term of said Court, held at Fredericks town, A. D. 1828, for an alleged misdemeanour, at or near the Madawaska settlement. *Transmitted here with.*

41. The Commissions of the several Governors, Lieutenant Governors, or other persons administering the Government of the Province of Quebec, from the year 1763, to the time when it was erected into the two Governments or Provinces of Upper and Lower Canada; and among which may be enumerated those of

The Honourable James Murray, Esquire, supposed to have been appointed Governor Oct. 8, 1763. *Do*

Appendix. Major General James Johnston, Governor, presumed to have been ap- No such Governor.
 No 31. pointed Nov. 26th, 1774.

Mr. Babson's
 List of American
 Evidence with
 his usual notes by
 the Earl of Aben-
 deen.

Guy Carleton, Esquire, Captain General and Governor in Chief, Dec. 29, Transmitted here-
 1774. with.

Ferdierick Haldimand, Esq. Captain General and Governor in Chief, Sep- Do.
 tember 1st, 1777.

Sir Guy Carleton Governor of Quebec, Nova Scotia and New Bruns- Do.
 wick, April 11, 1786.

42. The Commissions of the several Governors, Lieutenant Governors, or persons administering the Governments of the Provinces of Upper and Lower Canada, or either of them, from the period that the said separate Governments were established to the present time, and among which may be particularly mentioned those of

Francis Gore, Esq. as Lieut. Governor of Upper Canada appointed Do.
 March 1, 1806.

Lieut. General Sir James Henry Craig, as Captain General and Go- Do.
 vernor in Chief of the Provinces of Upper and Lower Canada, Nova Scotia, New Brunswick and the islands of Prince Edward and Cape Breton, August 29, 1807.

Honorable Francis Burton, Lieutenant Governor of Lower Canada, No- Do.
 vember 29, 1808.

Lieut. General George Prevost, Bart. Captain General, Governor in Do.
 Chief, &c. Commander of the Forces in Upper and Lower Canada, &c. ap-
 pointed in August, 1811.

Not yet received
 from the Rolls'
 Chapel.

Lieut. General Sir Coape Sherbrooke, Governor of the Provinces of
 Upper and Lower Canada, New Brunswick, Nova Scotia and the Islands
 of Prince Edward and Cape Breton, appointed in January, 1816.

Sir Peregrine Maitland, as Lieut. Governor of Upper Canada, January, Do
 1818.

Do. The Duke of Richmond, as Captain General and Governor in Chief of
 the Provinces of Lower and Upper Canada, Nova Scotia, New Brunswick
 and the Islands of Prince Edward and Cape Breton, in March, 1818.

Do. Lieut. General the Earl of Dalhousie, as Captain General and Governor
 in Chief of the Provinces of Lower and Upper Canada, Nova Scotia, New
 Brunswick and the Islands of Prince Edward and Cape Breton, appointed
 October, 1819.

Of Sir John Coleborne supposed to have been appointed in 1828, as Do
 Lieutenant Governor of Upper Canada.

APPENDIX

TO

Second Statement.

APPENDIX, No. VIII.

EXTRACTS

FROM THE

SECRET JOURNALS OF CONGRESS.

August 14, 1779.

Congress proceeded in the consideration of the instructions to the Minister to be appointed for negotiating a peace ; and unanimously agreed to the following draft of instructions to the Commissioner to be appointed to negotiate a Treaty of Peace with Great Britain.

Appendix.
No. 8.

Extracts from the
Secret Journals of
Congress.

Vol. 2—page 224.

3. The boundaries of these States are as follows, viz. These States are bounded North, by a line to be drawn from the north-west angle of Nova Scotia along the highlands which divide those rivers which empty themselves into the River St. Lawrence, from those which fall into the Atlantick Ocean, to the north-westernmost head of Connecticut River ; thence down along the middle of that river to the forty-fifth degree of North latitude ; thence due West in the latitude forty-five degrees north from the equator to the north-westernmost side of the River St. Lawrence or Cadaraqui ; *thence straight to the South end of Nepissing ; and thence straight to the source of the River Mississippi : West*, by a line to be drawn along the middle of the River Mississippi from its source to where the said line shall intersect the thirty-first degree of north latitude : South, by a line to be drawn due east from the termination of the line last mentioned in the latitude of thirty-one degrees north from the equator to the middle of the River Appalachiecola, or Cathouchi ; thence along the middle thereof to its junction with the Flint River ; thence straight to the head of St. Mary's River ; and thence down along the middle of St. Mary's River to the Atlantick Ocean : and East by a line to be drawn along the middle of St. John's River, from its source to its mouth in the Bay of Fundy, comprehending all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid boundaries between Nova Scotia on the one part, and East Florida on the other part, shall respectively touch the Bay of Fundy and Atlantick Ocean. You are, therefore, strongly to contend that the whole of the said countries and islands lying within the boundaries aforesaid, and every citadel, fort, post, place, harbour and road to them belonging, be absolutely evacuated by the land and sea forces of his Britannick Majesty, and yielded to the powers of the States to which they respectively belong, in such situation as they may be at the termination of the war. But, notwithstanding the clear right of these States, and the importance of the object, yet they are so much influenced by the dictates of religion and humanity, and so desirous of complying with the earnest request of their allies, that if the line to be drawn from the mouth of the Lake Nepissing to the head of the Mississippi cannot be obtained without continuing the war for that purpose,

Page 225.

Appendix. you are hereby empowered to agree to some other line between that point and the
 No 8. River Mississippi, provided the same shall in no part thereof be to the southward of
 latitude forty-five degrees north. And in like manner, if the eastern boundary above
 described cannot be obtained, you are hereby empowered to agree that the same shall
 be afterwards adjusted *by Commissioners to be duly appointed for that purpose,*
according to such line as shall be by them settled and agreed on, as the boundary
between that part of the State of Massachusetts Bay, formerly called the Province
of Maine, and the Colony of Nova Scotia, agreeably to their respective rights.
 And you may also consent, that the enemy shall destroy such fortifications as they
 may have erected.

Extracts from the
 Sec of J. & M. of
 Congress

Vol. 2—page 225.

Vol. 2—page 445. *Instructions to The Honourable John Adams, Benjamin Franklin, John Jay,*
Henry Laurens and Thomas Jefferson, Ministers Plenipotentiary on Behalf
of the United States of America to negotiate a Treaty of Peace.

You are hereby authorized and instructed to concur, in behalf of these United States, with his Most Christian Majesty, in accepting the mediation proposed by the Empress of Russia and the Emperor of Germany.

You are to accede to no Treaty of Peace which shall not be such as may, 1st, effectually secure the independence and sovereignty of the thirteen States, according to the form and effect of the Treaties subsisting between the said States and his Most Christian Majesty; and, 2d, in which the said Treaties shall not be left in their full force and validity.

As to *disputed boundaries* and other particulars, *we refer you to the instructions formerly given to Mr. Adams, dated 14th August, 1779, and 15th October, 1780, from which you will easily perceive the desires and expectations of Congress; but we think it unsafe, at this distance, to tie you up by absolute and peremptory directions upon any other subject than the two essential articles abovementioned.* You are therefore at liberty to secure the interest of the United States in such manner as circumstances may direct, and as the state of the belligerent and disposition of the mediating powers may require. For this purpose, you are to make the most candid and confidential communications upon all subjects to the Ministers of our generous ally, the King of France; to undertake nothing in the negotiations for peace or truce without their knowledge and concurrence; and ultimately to govern yourselves by their advice and opinion, endeavouring in your whole conduct to make them sensible how much we rely on his Majesty's influence for effectual support in every thing that may be necessary to the present security, or future prosperity of the United States of America.

If a difficulty should arise in the course of the negotiation for peace, from the backwardness of Britain to make a formal acknowledgment of our independence, you are at liberty to agree to a truce, or to make such other concessions as may not affect the substance of what we contend for; and *provided that Great Britain be not left in possession of any part of the Thirteen United States.*

[Signed]

SAMUEL HUNTINGTON,

President.

CH. THOMSON,

Secretary.

Vol. 3—page 161.

On the 22d of January, 1782, the foregoing report was referred to another committee, consisting of Mr. Carroll, Mr. Randolph and Mr. Montgomery, who on the 16th day of August, 1782, reported, that they have collected facts and observations as follows, which they recommend to be referred to the Secretary for Foreign Affairs, to be by him digested, completed and transmitted to the ministers plenipotentiary for negotiating a peace, for their information and use.

Facts and Observations in support of the several Claims of the United States not included in their Ultimatum of the 15th of June, 1781. *Appendix.*
No. 8.

Extracts from the
Secret Journals of
Congress.

Vol. 3—page 170.

First Objection. Even upon the supposition that the Charter of Massachusetts is valid, so as to cover the vacant lands, still it does not follow, that St. John's River is part of its Eastern boundary. For that river is contended to be in Nova Scotia, under the expression in the new charter of Massachusetts, in 1691, which conveys the Country between the Province of Maine and Nova Scotia. *The South-west boundary of Nova Scotia, therefore will regulate this claim.* But it is well known that in the altercation between France and Great Britain upon this very subject, in 1751, Acadia, or Nova Scotia, was asserted by the latter to be bounded by Pentagoet or Penobscot River.

Answer. It is to be observed, that when the boundaries of the United States were declared to be an ultimatum, it was not thought advisable to continue the war merely to obtain territory as far as St. John's River; but that the dividing line of Massachusetts and Nova Scotia was to be consigned to future settlement. *It must be confessed also that this country, which is said in the new charter to border on Nova Scotia and the Province of Maine, on opposite sides, and which goes under the name of Sagadahock, cannot be proved to extend to the River St. John, as clearly as to that of St. Croix.* But there is some reason, notwithstanding, to believe that Nova Scotia was never supposed by the British King, in any grant to his subjects, to come to the South of St. John's River, although he might have exacted from France a relinquishment of the lands to the River Penobscot, or even Kennebeck, as a part of Nova Scotia.

The first notice taken of Nova Scotia by the King of Great Britain was in a grant which he made of that country to Sir William Alexander, on the 10th September, 1621. According to this grant, it was to begin at Cape Sable, to extend towards St. Mary's Bay, to cross the great bay between the Etchemins and Sourigois to the mouth of the River St. Croix, to run up to the source of that river, and from thence by a straight line drawn northwardly to the Great River of Canada. On the 12th July, 1625, a patent issued to the same Sir William Alexander confirming to him the same.

These grants could not reach to the west of St. Croix, "because" (say the English Commissaries in their memorial of the 11th January, 1751, s. 42,) "all the country to the westward of the River St. Croix had, in the year 1620, before the date of the first of them, been granted by King James to certain of his subjects, by the name of the Council of Plymouth, of which grantees Sir William Alexander was one, and who, by virtue of an agreement among the said grantees, possessed the country lying between the River St. Croix and Pemaquid, a little to the westward of Pentagoet."

Popple's map, which was undertaken, as the author relates, with the approbation of the Lords Commissioners of Trade and Plantations, makes St. Croix the western boundary of Nova Scotia. Champlain expressly bounds Acadia by St. Croix to the westward. We may add, as being further corroborative of this western limit of Nova Scotia, that the English Commissaries themselves, in their reply of the 4th October, 1751, commend the map in the fourth volume of Purchas's Pilgrim as the first ancient map of Nova Scotia and New England deserving notice; the latter of which they assert to be bounded northwardly, as is delineated in the map, by the River St. Croix. The same Commissaries afterwards remark, that it is clear from history that the Country between the rivers Sagadahock and St. Croix had been settled many years earlier than the date of the new Charter of Massachusetts; and that Great Britain considered it as a part of her American Colonies. It could not have been included within Nova Scotia, since it is expressly contradistinguished from it. Sagadahock too is

Appendix. granted to the Duke of York under the description of "all that part of the main land
No. 8. of New England beginning at a certain place called or known by the name of St. Croix, adjoining to New Scotland in America "

Extracts from the
Secret Journals of
Congress

Vol. 3—page 170.

Should it be argued, that it was manifestly the opinion in England at the time of granting the new charter that the lands between the Rivers Sagadahock and St. Croix were not included within the limits of Massachusetts, since grants of them were not valid until confirmed by the Crown; an answer arises from two considerations. First, this charter incorporates these lands into the Province of Massachusetts in unequivocal terms; and, Secondly, one at least of the Counsellors directed to be chosen yearly for the Province at large, was to be from the inhabitants or proprietors of lands within this territory. The Board of Trade and Plantations on the 29th April, 1700, declared in a solemn act, that New England ought of right to extend to St. Croix. See the Act.

It does not appear then, that Nova Scotia hath ever been carried to the West of the River St. Croix in any British grant, or any British document relative to New England. We own that in the memorials of the Court of Great Britain to the French Court, after the peace of Aix la Chapelle, relative to the boundaries of Nova Scotia, Penobscot River is sometimes asserted to be one of its boundaries, and Kennebeck, at others. But nothing is proved from thence, but a desire in the British King to procure an absolute release from France of all her pretensions, however distant. For a general discussion on this subject, see the British and French memorials on the occasion, and the treaties of St. Germain, on the 29th of March, 1632, of Westminster, 3d November, 1655, and of Breda, 31st July, 1667.

As to the territory of Sagadahock, which is synonymous with the lands between the Province of Maine and Nova Scotia, conveyed by the new charter, we can only observe upon the expression already cited from the grant thereof to the Duke of York, that the "place called St. Croix adjoining to New Scotland," must mean the territory which went by that name. Had the river only been designed, it alone would have been mentioned. It seems to have been the practice of those times to denominate a Country from a river which bounded it. The River Sagadahock accordingly, at first, gave its own appellation to the whole country as far as the River St. Croix, and afterwards, to the country from thence to St. John's, which had before been called St. Croix. The *place*, therefore, called St. Croix, adjoining to New Scotland, was most likely intended to describe the lands between the Rivers St. Croix and St. John's. History does not inform us that any particular spot of them was known as St. Croix. But as the first course of the grant to the Duke of York plainly runs from Nova Scotia to Massachusetts along the sea coast, it is probable that it was to begin at the first point in the country of St. Croix on the coast. This must have been on St. John's River. And as the last line of the grant is not closed, it is more agreeable to the usage of those days to adopt a natural boundary. For this purpose, St. John's River was obvious as far as its head, and afterwards a line to the great river of Canada. See grant to the Duke of York for Sagadahock, 12th March, 1663-4.

We are obliged to urge probabilities, because in the early possession of a rough unreclaimed country accuracy of lines cannot be much attended to. But we wish that the north-eastern boundary of Massachusetts may be left to future discussion, *when other evidences may be obtained which the war has removed from us.*

* * * * *

“for the present and until his (the British King’s) farther pleasure should be known,” *Appendix*
 for any lands beyond the heads or sources of the Rivers which fall into the Atlantick *No. 8.*
 Ocean from the west and north-west, strongly intimates an opinion, that there were *Extract in the*
 lands beyond the heads of those rivers within the jurisdiction of those Governours. *Secret Journals of*
 Otherwise the prohibition would have been unnecessary. Again, by the injunction *Congress.*
 “not to grant warrants of survey, or to pass patents for any lands whatever which, *Vol. 3—page 129*
 not having been ceded to or purchased by the British King, were reserved to the
 Indians, or any of them,” a restriction of territory could not have been designed by a
 King, who granted charters to his Colonies, knowing that they would interfere with
 the rights of the Indians, who has always considered a cession or purchase from them
 as a milder mean of anticipating their hostility rather than a source of title, who since
 the date of the proclamation has granted, through the prohibited Governours them-
 selves, large quantities of lands beyond the heads of those rivers, and whose own
 geographer, Eman’l Bowen, in a map delineating the British, Spanish, and French
 dominions in America, according to the Treaty of Paris and this very proclamation,
 has carried Georgia, South Carolina, North Carolina, and Virginia as far as the Mis-
 sissippi. The single object of these parts of the proclamation was to suspend the
 business of the land offices, not to curtail limits ; to keep the Indians in peace, not to
 annihilate the territorial rights of the Colonies.

August 20, 1782.

The report being under debate for referring the foregoing facts and observations to
 the Secretary for Foreign Affairs, to be by him digested, completed and transmitted
 to the ministers plenipotentiary of the United States, for negotiating a treaty of peace,

Page 301.

* * * * *

A motion was made by Mr. Witherspoon, seconded by Mr. Montgomery, that the
 report be committed ; and on the question for commitment, the yeas and nays being
 required by Mr. Bland—

Page 303.

* * * * *

So it was resolved in the affirmative.

APPENDIX, No. IX. (a)

EXTRACTS

FROM

FRANKLIN'S PRINTED PRIVATE CORRESPONDENCE.

Paper No. 1, entire. [See Appendix, page 69.]

Appendix.
No. 9. (a)

Extracts from Dr.
Franklin's Private
Correspondence.

Proposed Articles.
(Appendix. p. 69.)

Articles agreed upon by and between Richard Oswald, Esq. the Commissioner of His Britannic Majesty for treating of peace with the Commissioners of the United States of America, on the behalf of his said Majesty, on the one part, and Benjamin Franklin and John Jay, two of the Commissioners of the said States for treating of peace with the Commissioner of his said Majesty, on their behalf, on the other part.

Whereas, *reciprocal advantages* and mutual convenience are found, by experience, to form the only permanent foundation of peace and friendship between States, it is agreed to *frame the articles* of the proposed treaty on such principles of *liberal equality* and *reciprocity*, as that partial advantages (those seeds of discord,) being excluded, such a *beneficial and satisfactory intercourse* between the two countries *may be established*, as to promise and secure to both the blessings of perpetual peace and harmony.

1st. His Britannic Majesty acknowledges the said United States, viz: New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, to be *free, sovereign, and independent States*: That *he treats with them as such*: and for himself, his heirs and successors, relinquishes all claims to the government, proprietary, and territorial rights of the same, and every part thereof; and that *all disputes which might arise*, in future, *on the subject of the boundaries* of the said United States. *may be prevented*, if it is hereby agreed and declared, that the following are, and shall remain to be, their boundaries, viz:

The said States are bounded, *North, by a line to be drawn from the north-west angle of Nova Scotia, along the high lands which divide those rivers which empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the northernmost head of Connecticut River*; thence, down along the middle of that river to the 45th degree of north latitude, and thence due west, in the latitude forty-five degrees north from the equator, to the north-westernmost side of the River St. Lawrence, or Cadaraqui; *thence straight to the south end of the Lake Nipissing, and thence straight to the source of the River Mississippi*: West, by a line to be drawn along the middle of the River Mississippi, from its source to where the said line shall intersect the thirty-first degree of north latitude: South, by a line to be drawn due east from the termination of the line last mentioned, in the latitude of thirty-one degrees north of the equator, to the middle of the River Apalachicola, or Catahouchi: thence along the middle thereof, to its junction with the Flint River;

thence, straight to the head of St. Mary's River; thence, down along the middle of *St. Mary's River to the Atlantic Ocean: and East, by a line to be drawn along the middle of St. John's River, from its source to its mouth in the Bay of Fundy,* comprehending all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid boundaries, between Nova Scotia on the one part, and East Florida on the other, shall, respectively, touch the Bay of Fundy and the Atlantic Ocean.

Appendix.
No. 9 (a)
Extracts from Dr
Franklin's Private
Correspondence.
Proposed Articles
Appendix, p. 68

2d. From and immediately after the conclusion of the proposed treaty, there shall be a firm and perpetual peace between His Britannic Majesty and the United States, and between the subjects of the one and the citizens of the other: wherefore, all hostilities, both by sea and land, shall then immediately cease; all prisoners on both sides shall be set at liberty; and his Britannic Majesty shall, forthwith, and without causing any distinction, withdraw all his armies, garrisons and fleets from the said United States, and from every post, place and harbor within the same, leaving in all fortifications the American artillery that may be therein: and shall also order and cause all archives, records, deeds, and papers, belonging to either of the said States, or their citizens, which, in the course of the war, may have fallen into the hands of his officers, to be forthwith restored, and delivered to the proper States and persons to whom they belong.

3d. That the subjects of his Britannic Majesty, and the people of the said United States, shall continue to enjoy, unmolested, the right to take fish of every kind on the banks of Newfoundland, and other places where the inhabitants of both countries used formerly, to wit: before the last war between France and Britain, to fish; and, also, to dry and cure the same at the *accustomed places, whether belonging to his said Majesty, or to the United States;* and his Britannic Majesty and the said United States will extend equal privileges and hospitality to each other's fishermen as to their own.

4th. That the navigation of the River Mississippi, from its source to the Ocean, shall forever remain free and open; and that both there, and *in all rivers, harbors, lakes, ports, and places, belonging to his Britannic Majesty, or to the United States, or in any part of the world,* the merchants and merchants' ships, *of the one and the other,* shall be received, treated and protected, like the merchant and merchants' ships of the sovereign of the country: that is to say, *the British merchants and merchant ships, on the one hand,* shall enjoy *in the United States,* and in all places belonging to them, the said *protection and commercial privileges,* and be liable *only to the same charges* and duties as *their own merchants and merchant ships;* and, *on the other hand,* the merchants and merchant ships of the United States, shall enjoy *in all places belonging to his Britannic Majesty, the same protection and commercial privileges,* and be liable *only to the same charges* and duties of *British Merchants and merchant ships,* saving always, to the chartered trading companies of Great Britain, such exclusive use and trade, and their respective posts and establishments, as neither the subjects of Great Britain, nor any of the mere favored nations, participate in.

PARIS, 8th October, 1782. A true copy of which has been agreed on between the American Commissioners and me, to be submitted to his Majesty's consideration.

[Signed] RICHARD OSWALD.

Alteration to be made in the treaty respecting the boundaries of Nova Scotia, viz:

East—The TRUE line between which and the United States shall be settled by Commissioners, as soon as conveniently may be after the war.

Appendix.
No. 9. (a)

Extract of a Letter to the Hon. Robert R. R. Livingston.

Passy, September 26, 1782.

Extracts from Dr.
Franklin's Private
Correspondence.

2d Extract.

Dr. Franklin to R.
R. Livingston

"The negotiations for peace have hitherto amounted to little more than mutual professions of sincere desires, &c., being obstructed by the want of due form in the English commissions appointing their plenipotentiaries. The objections made to those for treating with France, Spain, and Holland, were first removed; and by the enclosed,* it seems that our objections to that for treating with us, will now be removed also; so that we expect to begin in a few days our negotiations. But there are so many interests to be considered and settled in a peace between five different nations, that it will be well not to flatter ourselves with a very speedy conclusion."

* The Commission here following:

Commission to
Richard Oswald.

Commission under the Great Seal of Great Britain, empowering Richard Oswald, Esq. to treat with the Commissioners of the Thirteen United States of America.

George the Third, by the Grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, and so forth, To our trusty and well beloved Richard Oswald, of our City of London, Esq. Greeting: Whereas, by virtue of an act passed in the last session of Parliament, intituled an Act to enable his Majesty to conclude a peace or truce with certain Colonies in North America therein mentioned, it is recited, that it is essential to the interests, welfare, and prosperity of Great Britain and the Colonies or Plantations of New Hampshire, Massachusetts' Bay, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, the three lower counties on Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, in North America, that peace, intercourse, trade, and commerce should be restored between them: therefore, and for a full manifestation of our earnest wish and desire, and of that of our parliament, to put an end to the calamities of war, it is enacted, that it should and might be lawful for us to treat, consult of, agree, and conclude with any Commissioner or Commissioners, named or to be named by the said colonies or plantations, or any of them respectively, or with any body or bodies corporate or politic, or any assembly or assemblies, or description of men, or any person or persons whatsoever, a peace or a truce with the said colonies or plantations, or any of them, or any part or parts thereof, any law, act or acts of parliament, matter or thing to the contrary in any wise notwithstanding; Now know ye, that we, reposing especial trust in your wisdom, loyalty, diligence, and circumspection, in the management of the affairs to be hereby committed to your charge, have nominated and appointed, constituted and assigned, and by these presents do nominate and appoint, constitute and assign you, the said Richard Oswald, to be our Commissioner in that behalf, to use and exercise all and every the powers and authorities hereby entrusted and committed to you, the said Richard Oswald, and to do, perform, and execute all other matters and things hereby enjoined and committed to your care, during our will and no longer, according to the tenor of these our letters patent; And it is our royal will and pleasure, and we do hereby authorize, empower, and require you, the said Richard Oswald, to treat, consult of, and conclude, with any Commissioners or persons vested with equal powers, by and on the part of the thirteen United States of America, viz: New Hampshire, Massachusetts' Bay, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, the three lower counties on Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia in North America, a peace or a truce with the said thirteen United States, any law, act or acts of parliament, mat-

ter or thing to the contrary in any wise notwithstanding. And it is our further will and pleasure, that every regulation, provision, matter, or thing, which shall have been agreed upon between you, the said Richard Oswald, and such Commissioners or persons as aforesaid, with whom you shall have judged meet and sufficient to enter into such agreement, shall be fully and distinctly set forth in writing, and authenticated by your hand and seal on one side, and by the hands and seals of such Commissioners or persons on the other, and such instrument so authenticated, shall be by you transmitted to us through one of our principal Secretaries of State. And it is our further will and pleasure, that you, the said Richard Oswald, shall promise and engage for us, and in our royal name and word, that every regulation, provision, matter or thing, which may be agreed to and concluded by you our said Commissioner, shall be ratified and confirmed by us, in the fullest manner and extent; and that we will not suffer them to be violated or counteracted, either in whole or in part, by any person whatsoever. And we do hereby require and command all our officers, civil and military, and all others our loving subjects whatsoever, to be aiding and assisting unto you, the said Richard Oswald, in the execution of this our Commission, and of the powers and authorities herein contained. Provided always, and we do hereby declare and ordain, that the several offices, powers, and authorities hereby granted, shall cease, determine, and become utterly null and void, on the first day of July, which shall be in the year of our Lord one thousand seven hundred and eighty-three, although we shall not otherwise, in the mean time, have revoked and determined the same. And whereas in and by your commission and letters patent, under our Great Seal of Great Britain, bearing date the seventh day of August last, we nominated and appointed, constituted and assigned you, the said Richard Oswald, to be our Commissioner, to treat, consult of, agree, and conclude with any Commissioner or Commissioners named or to be named by certain Colonies or plantations therein specified, a peace or truce with the said Colonies or Plantations: Now know ye, that we have revoked and determined, and by these presents do revoke and determine, our said Commission and letters patent, and all and every power, article, and thing therein contained.

In witness whereof, we have caused these our letters to be made patent.

Witness our self at Westminster, the twenty-first day of September, and the twenty-second year of our reign.

By the King himself.

[Signed]

YORKE.

PARIS, October 1, 1782.

I certify, that the adjoining is a true copy of the Commission, of which it purports to be a Copy, and which has been shown to Dr. Franklin and Mr. Jay.

[Signed]

RICHARD OSWALD,

The Commissioner therein named.

Copy of the 1st and 22d Articles of the Preliminary Treaty between France and Great Britain.

ARTICLE XXII.

Pour prévenir tous les sujets de plainte et de contestation qui pourroient naître à l'occasion des prises qui pourroient être faites en mer depuis la signature de ces articles préliminaires, on est convenu réciproquement que les vaisseaux et effets qui pourroient être pris dans la Manche, et dans les Mers du Nord, après l'espace de douze jours à compter depuis la ratification des présents articles préliminaires, seront de part et d'autre restitués. Que le terme sera d'un mois depuis la Manche et les Mers du

Appendix.
No. 9. (a)

Extracts from Dr. Franklin's Private Correspondence.

2d Extract.

Commission to Richard Oswald

2d Extract

22d Article of the Preliminary Treaty.

Appendix. Nord, jusqu'aux Isles Canaries inclusivement, soit dans l'océan, soit dans la Méditerranée; de deux mois depuis lesdites Isles Canaries jusqu'à la ligne équinoxiale ou l'équateur; et enfin de cinq mois dans tous les autres endroits du monde sans aucune exception ni autre distinction plus particulière de tems et de lieux.

Extracts from Dr
Franklin's Private
Correspondence.

Extract from a Proclamation of George III. declaring a cessation of Arms. 14th February, 1783.

4th Extract
From a Proclamation
for a cessation
of arms.

"That such vessels and effects as should be taken in the Channel and in the North Seas, after the space of twelve days, to be computed from the ratification of the said preliminary articles, should be restored on all sides. That the term should be one month from the Channel and the North Seas, as far as the Canary Islands inclusive, whether in the Ocean or in the Mediterranean; two months from the said Canary Islands, as far as the equinoctial line or equator; and lastly, five months in all other parts of the world, without any exception, or any other more particular description of time or places:

"We have thought fit, by and with the advice of our privy council, to notify the same to all our loving subjects; and we do declare, that our royal will and pleasure is, and we do hereby strictly charge and command all our officers, both at sea and land, and all other our subjects whatsoever, to forbear all acts of hostility, either by sea or land, against his most Christian Majesty, the King of Spain, the States' General of the United Provinces, and the United States of America, their vessels or subjects, from and after the respective times above-mentioned, and under the penalty of incurring our highest displeasure.

"Given at our Court at St. James's, the fourteenth day of February, in the twenty-third year of our reign, and in the year of our Lord one thousand seven hundred and eighty-three.

"God save the King."

Extract of a Letter from the American Commissioners to R. R. Livingston, Esq. July, 1783.

5th Extract
Letter from the
American Com-
missioners to R.
Livingston

"Mr. Oswald was desirous to cover as much of the eastern shores of the Mississippi with British claims as possible, and for this purpose we were told a great deal about the ancient bounds of Canada and Louisiana, &c. &c. &c. The British Court, who had probably not yet adopted the idea of relinquishing the Floridas, seemed desirous of annexing as much territory to them as possible, even up to the mouth of the Ohio. Mr. Oswald adhered strongly to that object, as well to render the British Countries there of sufficient extent to be (as he expressed it) worth keeping and protecting, as to afford a convenient retreat to the Tories, for whom it would be difficult otherwise to provide. And among other arguments, he finally urged his being willing to yield to our demands to the east, north and west, as a further reason for our gratifying him on the point in question. He also produced the commission of Governor Johnson, extending the bounds of his government of West Florida up to the river Yassous, and contended for that extent as a matter of right upon various principles; which however we did not admit; the King not being authorized in our opinion to extend or contract the bounds of the colonies at pleasure."

"There are, no doubt, *certain ambiguities* in our articles; but it is *not to be wondered at*, when it is considered how exceedingly averse Britain was to expressions

which explicitly wounded the tories, and how disinclined we were to use any that should amount to absolute stipulations in their favor. Appendix.
No. 9. (a)

“The words, for restoring the property of *real British subjects*, were well understood and explained between us, not to mean or comprehend American refugees. Mr. Oswald and Mr. Fitzherbert know this to have been the case, and will readily confess and admit it. This mode of expression was preferred by them as a more delicate mode of excluding those refugees, and of making a proper distinction between them and the subjects of Britain, whose only *particular* interest in America consisted in holding lands or property there. Extracts from Dr
Franklin's Private
Correspondence.
5th Extract.
Letter from the A
merican Commis-
sioners to R. R.
Livingston

“The 6th Article, viz. where it declares that no *future confiscations* shall be made, &c. ought to have fixed the time with greater accuracy. We think the most fair and true construction is, that it relates to the date of the cessation of hostilities: that is the time when peace in fact took place, in consequence of prior informal, though binding, contracts to terminate the War. We consider the definitive Treaties as only giving the dress of form to those contracts, and not as constituting the obligation of them. Had the cessation of hostilities been the effect of a truce, and consequently not more than a temporary suspension of war, another construction would have been the true one.”

[Signed]

“J. ADAMS,
“B. FRANKLIN,
“J. JAY,
“H. LAURENS.”

APPENDIX, No. XXXII.

COMMISSIONS

TO

JOHN ELIOT AND PETER CHESTER.

1767--1770.

Commission to John Eliot, as Governor of the Province of West Florida.

Appendix.
No. 32.

Commissions of J.
Eliot and P. Chester,
as Governors
of West Florida.
John Eliot—1767.

“George the Third, by the grace of God, of Great Britain, France and Ireland, King, defender of the faith, and so forth, to our trusty and well beloved John Eliot, Esq^r.

Greeting:

“Whereas, we did by our letters patent under our great seal of Great Britain, bearing date at Westminster, the twenty-first day of November, *in the fourth year of our reign*, constitute and appoint *George Johnstone, Esquire*, captain general and governor in chief, in and over our Province of West Florida, in America, bounded to the southward by the gulph of Mexico, including all islands within six leagues of the coast, *from the river Apalachicola to lake Ponchartrain*; to the westward by the said lake, the lake Maurepas and the river Mississippi; *to the northward by a line drawn due east from that part of the river Mississippi which lies in 31 degrees north latitude, to the river Apalachicola or Chatahouchee* and to the eastward by the said river. And, whereas, by other our letters patent under our great seal of Great Britain, dated at Westminster, the sixth day of June, in the fourth year of our reign, we thought fit to revoke such part and so much of the said letters patent, and every clause article and thing therein contained, which doth any way relate to or concern the limits and bounds of our said province as above described, and did constitute and appoint the said George Johnstone, to be our captain general and governor in chief, in and over our province of West Florida, in America, bounded to the southward by the gulph of Mexico, including all islands within six leagues of the coast, *from the river Apalachicola to lake Ponchartrain*; to the westward by the said lake, the lake Maurepas and the river Mississippi; *to the northward by a line drawn from the mouth of the river Yasous where it unites with the Mississippi; due east to the river Apalachicola*, during our will and pleasure. Now know ye That we have revoked and determined, and by these presents do revoke and determine, both the said recited letters patent and every clause, article and thing therein contained And further know you That we reposing especial trust and confidence in the prudence courage and loyalty of you the said John Eliot, of our especial grace certain knowledge and meer motion have thought fit to constitute and appoint you, the said John Eliot, to be our captain general and governor in chief of our said province of West Florida, comprehended within the limits and bounds above described, in our said last recited letters patent.

“Witness ourself at Westminster, the *fifteenth day of May*, in the seventh year of our reign.

[Signed]

“YORKE.

YORKE.”

Commission to Peter Chester, as Governor of the Province of West Florida. *Appendix.*
No. 32.

George the Third, by the Grace of God, of Great Britain, France and Ireland, King, defender of the faith, and so forth, to our trusty and well beloved Peter Chester, Esquire, *Greeting:*

Commissions of J
Elot and P. Ches-
ter, as Governors
of West Florida.
P. Chester—1770

“We reposing especial trust and confidence in the prudence, courage and loyalty of you, the said Peter Chester, of our especial grace, certain knowledge and meer motion, have thought fit to constitute and appoint you, the said *Peter Chester* to be our captain general and *governor in chief, in and over our province of West Florida*, in America, bounded to the southward by the gulph of Mexico, including all islands within six leagues of the coast, *from the River Apalachicola* to lake Ponchartrain; to the westward by the said lake, and the lake Maurepas and the river Mississippi; to the northward by a line drawn from the mouth of the river *Yasous*, where it united with the *Mississippi*, due east to the river *Apalachicola*, and to the eastward by the said river.

“Witness ourself at Westminster, the twenty-fifth day of January in the tenth year of our reign.

[Signed]

“YORKE.”

APPENDIX, No. XXXIII.

PRELIMINARY ARTICLES

OF

THE TREATY OF PEACE OF 1783.

Appendix.
No. 33.

Preliminary Articles of Peace, 1783.

Articles agreed upon by and between Richard Oswald, Esquire, the Commissioner of his Britannic Majesty for treating of peace with the Commissioners of the United States of America, in behalf of his said Majesty, on the one part, and John Adams, Benjamin Franklin, John Jay, and Henry Laurens, four of the Commissioners of the said States for treating of peace with the Commissioner of his said Majesty, on their behalf, on the other part : to be inserted in, and to constitute the treaty of peace proposed to be concluded between the Crown of Great Britain, and the said United States, but which treaty is not to be concluded until terms of a Peace shall be agreed upon between Great Britain and France, and his Britannic Majesty shall be ready to conclude such treaty accordingly.

Whereas *reciprocal advantages* and mutual convenience are found by experience to form the only permanent foundation of peace and friendship between States, it is agreed *to form the articles of the proposed treaty* on such principles of *liberal equity and reciprocity*, as that partial advantages (those seeds of discord) being excluded, such a *beneficial and satisfactory intercourse* between the two countries *may be established*, as to promise and secure to both perpetual peace and harmony.

ARTICLE I.

His Britannic Majesty acknowledges the said United States, viz : New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, to be free, sovereign and independent States : that he treats with them as such, and for himself, his heirs and successors, relinquishes all claims to the government, propriety and territorial rights of the same, and every part thereof; and that *all disputes which might arise in future, on the subject of the boundaries of the said United States may be prevented*, it is hereby agreed and declared, that the following are and shall be their boundaries, viz :

ARTICLE II.

From the north-west angle of Nova Scotia, viz : that angle which is formed by a line drawn due north from the source of St. Croix River to the Highlands; along the said Highlands which divide those rivers that empty themselves into the river St. Lawrence, from those which fall into the Atlantic Ocean, to the North Westernmost Head of Connecticut River ; thence down along the Middle of that river to the 45th Degree of North Latitude ; from thence by a line due West on said latitude

until it strikes the river Iroquois or Cataraguy; thence along the middle of said river into Lake Ontario, through the Middle of said Lake until it strikes the communication by water between that Lake and Lake Erie; thence along the middle of said communication into Lake Erie, through the middle of said Lake until it arrives at the water communication between that Lake and Lake Huron; thence along the middle of said water communication into the Lake Huron; thence through the middle of said Lake to the water communication between that Lake and Lake Superior; thence through Lake Superior, Northward of the Isles Royal and Phelipeaux to the Long Lake; thence through the middle of said Long Lake, and the water communication between it and the Lake of the Woods, to the said Lake of the Woods; thence through the said Lake to the most north western point thereof; and from thence on a due west course to the River Mississippi; thence by a line to be drawn along the middle of the said River Mississippi, until it shall intersect the Northernmost part of the 31st degree of North Latitude. South, by a line to be drawn due East from the Determination of the line last mentioned, in the Latitude of 31 Degrees North of the Equator, to the Middle of the River Apalachicola or Catahouche; thence along the Middle thereof to its junction with the Flint River; thence straight to the Head of St Mary's River; and thence down along the Middle of St Mary's River to the Atlantic Ocean. East by a line to be drawn along the Middle of the River St. Croix from its Mouth in the Bay of Fundy to its source; and from its source directly North to the AFORE-SAID highlands which divide the rivers that fall into the Atlantic Ocean, from those which fall into the River St. Lawrence: comprehending all Islands within twenty Leagues of any part of the shores of the United States, and lying between lines to be drawn due East from the points where the aforesaid boundaries between Nova Scotia on the one part, and East Florida on the other, shall respectively touch the Bay of Fundy, and the Atlantic Ocean: excepting such Islands as now are or heretofore have been, within the limits of the said Province of Nova Scotia.

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No. 33.
Preliminary Articles of Peace, 1763.

ARTICLE III.

It is agreed that the people of the United States shall continue to enjoy unmolested the right to take Fish of every kind on the *Grand Bank*, and on all the other Banks of Newfoundland; also in the *Gulph of St Lawrence*, and at all other places in the Sea, where the inhabitants of both countries used at any time heretofore to Fish, and also that the inhabitants of the United States shall have liberty to take Fish of every kind on such part of the coast of Newfoundland as British Fishermen shall use, (but not to dry or cure the same on that Island) and also on the coasts, Bays, and Creeks of all other of his Britannic Majesty's Dominions in America; and that the American Fishermen shall have liberty to dry and cure fish in any of the unsettled Bays, Harbours and Creeks of Nova Scotia, Magdalen Islands, and Labrador, so long as the same shall remain unsettled; but so soon as the same, or either of them shall be settled, it shall not be lawful for the said fishermen to dry or cure Fish at such settlement, without a previous agreement, for that purpose, with the inhabitants, proprietors or possessors of the ground.

ARTICLE IV.

It is agreed, that creditors on either side shall meet with no lawful impediment to the recovery of the full value in sterling money of all bona fide debts heretofore contracted.

ARTICLE V.

It is agreed, that the Congress shall earnestly recommend it to the Legislatures of the respective States, to provide for the restitution of all Estates, Rights, and Properties

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No. 33.

Preliminary Articles of Peace, 1763.

which have been confiscated, belonging to real British Subjects, and also of the Estates, Rights, and Properties of persons resident in districts in the possession of his Majesty's arms, and who have not borne arms against the said United States; and that persons of any other description shall have free liberty to go to any part or parts of any of the thirteen United States, and therein to remain twelve months unmolested in their endeavours to obtain the restitution of such of their estates, Rights and properties as may have been confiscated: and that Congress also shall earnestly recommend to the several States, a reconsideration and revision of all acts or laws regarding the premises, so as to render the said laws or acts perfectly consistent, not only with Justice and Equity, but with that spirit of conciliation, which, on the return of the blessings of peace, should universally prevail. And that Congress shall also earnestly recommend to the several States, that the estates, rights and properties of such last mentioned persons shall be restored to them, they refunding to any persons who may be now in possession, the bona fide price (where any has been given) which such persons may have paid on purchasing any of the said Lands, Rights, and Properties, since the confiscation. And it is agreed that all persons who have any interest in confiscated lands, either by debts, marriage settlements, or otherwise, shall meet with no lawful impediment in the prosecution of their just rights.

ARTICLE VI.

That there shall be no future confiscations made, nor any prosecutions commenced against any person or persons, for or by reason of the part which he or they may have taken in the present War, and that no person shall on that account suffer any future loss or damage, either in his person, liberty or property; and that those who may be in confinement on such charges at the time of the ratification of the treaty in America, shall be immediately set at liberty, and the prosecutions so commenced be discontinued.

ARTICLE VII.

There shall be a firm and perpetual peace between his Britannic Majesty and the said States, and between the Subjects of the one and the Citizens of the other, wherefore all hostilities both by Sea and Land shall then immediately cease: all prisoners on both sides shall be set at liberty, and his Britannic Majesty shall with all convenient speed, and without causing any destruction, or carrying away any Negroes, or other property of the American inhabitants, withdraw all his armies, garrisons and fleets from the said United States, and from every port, place and Harbour within the same, leaving in all Fortifications the American Artillery, that may be therein: and shall also order and cause all archives, records, deeds and papers belonging to any of the said States, or their Citizens, which in the course of the war may have fallen into the hands of his officers, to be forthwith restored and delivered to the proper States and persons to whom they belong.

ARTICLE VIII.

The Navigation of the River Mississippi, from its source to the Ocean, shall forever remain free and open to the subjects of Great Britain, and the citizens of the United States.

ARTICLE IX.

In case it should so happen that any place or territory belonging to Great Britain or to the United States, should be conquered by the arms of either, from the other, before the arrival of these Articles in America, it is agreed that the same shall be restored without difficulty, and without requiring any compensation.

Done at Paris the thirtieth day of November in the year one thousand seven hundred eighty-two. *Appendix.*
No. 33.

| | |
|---------|-----------------|
| [L. S.] | RICHARD OSWALD. |
| [L. S.] | JOHN ADAMS. |
| [L. S.] | B. FRANKLIN. |
| [L. S.] | JOHN JAY. |
| [L. S.] | HENRY LAURENS |

Preliminary Articles of Peace, 1783.

Witness,

CALEB WHITEFOORD,
Secretary to the British Commission.

W. T. FRANKLIN,
Secretary to the American Commission.

SEPARATE ARTICLE.

It is hereby understood and agreed that *in case* Great Britain, at the conclusion of the present War, shall recover or be put in possession of *West Florida*, the line of North boundary between the said Province and the United States shall be a line drawn from the mouth of the River Yassous, where it unites with the Mississippi, due East to the river Apalachicola.

Done at Paris the 30th day of November, in the year one thousand seven hundred and eighty-two.

| | |
|---------|-----------------|
| [L. S.] | RICHARD OSWALD. |
| [L. S.] | JOHN ADAMS. |
| [L. S.] | B. FRANKLIN. |
| [L. S.] | JOHN JAY. |
| [L. S.] | HENRY LAURENS. |

Attest,

CALEB WHITEFOORD,
Secretary to the British Commission.

W. T. FRANKLIN,
Secretary to the American Commission.

A true copy examined and compared with the original by

[L. S.]

B. FRANKLIN.

Passy, Dec. 4, 1782.

APPENDIX, No. XXXIV.

GRANTS

BY

THE PROVINCE OF NOVA SCOTIA

TO

WILLIAM OWEN AND OTHERS, AND TO FRANCIS BERNARD AND OTHERS.

Appendix.
No. 34.

Grants by the
Province of Nova
Scotia.

Grant of Lord
Campbell to W.
Owen and others.
30th Sept. 1767.

NOVA SCOTIA, ss.

To all to whom these presents shall come greeting:

Know ye that I, Lord William Campbell Captain General and Governor in Chief in and over His Majesty's Province of Nova Scotia or Acadie and its Dependencies Vice Admiral of the same, &c. &c. &c. By virtue of the power and authority to me given by his present Majesty King George the Third under the Great Seal of Great Britain have given granted and confirmed and Do by these presents by and with the advice and consent of His Majesty's Council for the said Province *give grant* and confirm unto *William Owen, Arthur Davis Owen, David Owen, and William Owen, jr.* their heirs and assigns *a tract of Land* situate, lying and being *an Island at Passamaquoddy called Passamaquoddy Outer Island*, and is bounded on the south east by the *Bay of Fundy* on the north west by *Passamaquoddy Harbour* and the south west by *Passamaquoddy western Harbour* on the north east by *Passamaquoddy Bay* containing in the whole by estimation Four thousand Acres.

In Witness whereof I have signed these presents and caused the seal of the Province to be thereunto affixed at Halifax this thirtieth day of September in the seventh year of the reign of our Sovereign Lord George the Third by the grace of God of Great Britain France and Ireland King Defender of the Faith and so forth and in the year of our Lord one thousand seven hundred and sixty-seven.

By His Excellency's Command with the advice and consent of His Majesty's Council.

RICH'D BULKELEY,
Secretary.

Grant to Francis
Bernard & others.
31st October, 1765.

NOVA SCOTIA, ss.

To all to whom these presents shall come Greeting, Know ye that I Montagu Wilmot Esquire Captain General and Governor in Chief in and over His Majesty's Province of Nova Scotia or Acadie and its dependencies Vice Admiral of the same &c. &c. &c. by virtue of the power and authority to me Given by his present Majesty King George the Third under the Great Seal of Great Britain *have given granted* and confirmed and *Do by these presents give grant* and confirm unto *Francis Bernard, Thomas Pownall, John Michel, Thomas Thoroton and Richard*

Jackson Esquires their heirs and assigns in severalty *a tract of Land* situate lying *Appendix.*
 and being *beginning at the head of the Western Branch of the River Copscook* No. 34.
called the River St. Croix two Leagues above the Falls or full Rapids and *to run* Grants by the Pro-
from thence North on the Meridian line or North fourteen degrees east by the vince of Nova Sco-
Needle Seventeen Miles, thence South sixty-six degrees East till it *meets with the* Grant to Francis
Western Branch of the River Scoodick and is thence *bounded by said River Scoo-* Bernard & others
dick to the East Bay and by the said Bay round into Copscook River through the 31st October, 1765.
 the Falls and up the Western Branch to the first mentioned Boundary together with the
 Island called Moose Island and the Island called St. Croix Island containing in the
 whole by Estimation One Hundred Thousand Acres more or less with allowance for
 roads &c.

In Witness whereof I have signed these Presents and caused the Seal of the Pro-
 vince to be thereunto affixed at Halifax this Thirty-first day of October in the sixth
 year of the Reign of our Sovereign Lord George the Third by the Grace of God
 of Great Britain France and Ireland King Defender of the Faith and so forth and in
 the year of our Lord one thousand seven Hundred and Sixty-five.

By His Excellency's Command.

[L. s.]

[Signed]

RICHD. BULKELEY,
Secretary.

APPENDIX, No. XXXV.

EXTRACTS

FROM

THE ARGUMENTS OF THE BRITISH AGENT.

BEFORE THE

COMMISSIONERS UNDER THE 5TH ARTICLE OF THE TREATY OF 1794

1797.

Appendix. Extracts from the Arguments of the British Agent, addressed, in the year 1797; No. 35. to the Commissioners appointed pursuant to the 5th article of the Treaty of 1794, between the U. States and Great Britain.

Extracts from the Arguments of the British Agent under the Treaty of 1794.

1st Extract.

“ *The limits of the Province of Nova Scotia, at the time of the Treaty of peace, were the same that were established when the province was anciently and originally erected and named, in every respect, excepting the said Island of St. John and the Northern Boundary line, which, by the erection of the province of Quebec, after the peace of 1763, was altered from the southern bank of the river St. Lawrence to the highlands described in the article of the Treaty of peace, now under consideration; and further, that with these exceptions there never was but one and the same tract of country and Islands that formed the province of Nova Scotia.*”

2d Extract.

“ *If it can be shewn that the River St. Croix, so called by the Indians, is this River St. Croix, and that a line along the middle of it to its source, together with a line due north from its source, formed a part of the western boundaries of the province of Nova Scotia, and that the highlands formed the northern boundary line of this province, at the time the Treaty of peace was made, so as to form the north-west Angle of Nova Scotia by these western and northern boundaries, the intention of the Treaty of Peace is at once ascertained in the great point in controversy.*”

3d Extract.

“ *We are now come to the charter of King William and Queen Mary to the province of Massachusetts Bay, dated the 7th October, 1691. By this charter the former Colony of Massachusetts Bay, the Colony of New Plymouth, the province of Maine, the Territory called Aecadia, or Nova Scotia, and all that tract of land lying between the said Territory of Nova Scotia and the Province of Maine, are erected into one province, by the name of Massachusetts Bay, in New England.*

“ *The colonies of Massachusetts Bay and New Plymouth were held, by the respective proprietors and inhabitants, under grants from the grand Council of Plymouth. The former was afterwards confirmed by a grant or charter from King Charles 1st. “The province of Maine” was the same territory of which the Grant has been already recited to Sir Ferdinando Gorges, and which had, previous to the charter of William and Mary, been conveyed by the heir of the said Gorges to the said Colony of Massachusetts Bay.*

“ The Territory of Aeadia, or Nova Scotia, was the same territory which was granted to Sir William Alexander, in 1621, bounded westerly by the river St. Croix, as will presently appear; and the Tract of land lying between this Territory of Nova Scotia and the said “ province of Maine ” was the Territory granted to the Duke of York, which had reverted to the Crown by his subsequent accession to the Throne, and by his abdication was vested in his Successor. This Territory, as we have seen, was bounded easterly upon the same river St. Croix, and was afterwards commonly called by the name of the Territory of Sagadahock.”

Appendix.
No. 35.

Extracts from the
Arguments of the
British Agent under
the Treaty of 1794.

3d Extract.

“ All the French possessions upon the continent of North America being by that treaty ceded to Great Britain, the province of Quebec was created and established by the Royal proclamation of the 7th October, in that year, and *bounded on the South by the Highlands which divide the rivers that empty themselves into the River Saint Lawrence from those which fall into the SEA or ATLANTIC OCEAN*, thereby altering the North boundary of the province of Nova Scotia from the southern shore of the river St. Lawrence to those Highlands.”

4th Extract.

“(b) The Act is entitled “ an Act to restrain the trade and commerce of the province of Massachusetts Bay and New Hampshire, and colonies of Connecticut and Rhode Island and Providence Plantations, in North America, to Great Britain, Ireland, and the British Islands, in the West Indies; and to prohibit such provinces and Colonies from carrying on any Fishery on the Banks of Newfoundland, or other places therein mentioned, under certain conditions and limitations.” In the 12th Section of the Act it is provided and enacted “ that the river which emptieth itself in Passamacadie or Passamaquoddy Bay, on the western side, and is commonly called and known by the name of St. Croix river, be held and deemed, for all the purposes in this Act contained, to be the boundary line between the provinces of Massachusetts Bay and Nova Scotia.

5th Extract.

“ This Act creates no new boundary; it merely recognises, confirms and establishes that river St. Croix as a boundary between the provinces of Nova Scotia, in the Patent to Sir William Alexander, in 1621, which was agreed upon, settled, known, and acknowledged, as *the boundary between the province of Nova Scotia and the territory of New England*, granted to the council of Plymouth, in the year 1620, which, after the surrender of their grand Charter, *was the boundary between Nova Scotia and the Territory granted to the Duke of York in 1664*, which was recognised as the western boundary of Nova Scotia by the Charter of William and Mary to the province of Massachusetts Bay, in 1691; and which, *from the Treaty of Utrecht, in 1713, was the boundary between the provinces of Massachusetts Bay and Nova Scotia, received and established by the crown*, and known, acknowledged and acquiesced in by the government of the province of Massachusetts Bay. That, from the time of the passing of this Act of Parliament in 1774, the boundaries of the Province of Nova Scotia remained unaltered to the treaty of peace in 1783, will not it is presumed be denied. And it will not be difficult now to shew that the river Scoudiac, under the name of the river St. Croix, formed a part of the boundary described in that Treaty.

“ It is sufficient here to observe, that at the time the treaty of peace was made in 1783, *the provinces of Quebec and Nova Scotia belonged to and were in the possession of the crown of Great Britain*; and that his Britannic Majesty, at that time, had an undoubted right to cede to the United States of America such part of these Territories as he might think fit; and that in making the cession of the territory comprised within the boundaries of the United States, as described in the second article of the treaty of peace, *his Majesty must be supposed to have used the terms describing these boundaries in the sense in which they had been uniformly understood in the British na-*

Appendix. tion, and recognised in public documents and acts of government. In this sense, and in no other, could they have been then understood, or can they now be claimed or insisted upon by the United States. In this sense, and in no other, is his Majesty bound to give the possession.

Extracts from the Arguments of the British Agent under the Treaty of 1791

5th Extract.

“Whatever river was at that time known and recognised by his Majesty and the British Government as the river St. Croix, forming a boundary between the province of Massachusetts Bay and Nova Scotia, that river, and no other, can now be claimed as a part of the Eastern of the United States. It is sufficient that in this Act of Parliament the river Saint Croix is described by a particular location and boundaries, which cannot be mistaken, known to both parties at the time, and assented to on the part of the United States by their accepting the Act, and not giving any local designation of the river which they now claim, or of any other river than that thus ascertained by precise description, and known by them to have been established, and at the time contemplated by Great Britain as the boundary between these provinces. If this principle were once departed from, there would be no check to contention on the subject; though it would be fortunate to his Majesty’s interests if he were not thus bound, as it might be clearly shewn, in that case, that the river Penobscot, once, indiscriminately with the other rivers upon this Coast, (a) called the St. Croix, was the true boundary by which Nova Scotia or Acadia was ceded to his Majesty by the Treaty of Utrecht, and ought, in such case, by the principles of the Laws of Nations, (b) to be established as the Eastern boundary of the United States.”

6th Extract.

“But to apply these facts to the point more immediately under consideration—whether a line due north from the source of the western or main branch of the river Scoudiac or Saint Croix, will leave to each of the parties to the treaty the sources of those rivers that empty themselves or whose mouths are within its Territories upon the sea coast respectively.

“The effect, so far as regards the United States, is completely secured by the treaty in all events; and thence we have further reason to suppose it was intended to be reciprocal in this respect, if a just interpretation will warrant it. A line due north from a source of the western or main branch of the Scoudiac or Saint Croix, will fully secure this effect to the United States in every instance, and also to Great Britain in all instances except in that of the river St. John, wherein it becomes impossible, by reason that the source of this river is to the westward, not only of the western boundary line of Nova Scotia, but of the sources of the Penobscot, and even of the Kennebeck, so that this north line must of necessity cross the river St. John; but it will cross it in a part of it almost at the foot of the highlands, and where it ceases to be navigable. But if a north line is traced from the source of the Cheputnatcook, it will not only cross the river St. John within about fifty miles from Fredericton, the Metropolis of New Brunswick, but will cut off the sources of the rivers which fall into the Bay of Chaleurs, if not of many others, probably the Mirramichi among them, which fall into the gulph of St Lawrence, and thereby be productive of inconvenient consequences to the two powers, if not of contention between them, instead of terminating their differences in such a manner as may be best calculated to produce mutual satisfaction and good understanding, which is one of the principal and avowed objects of the treaty.

“Had the Treaty intended that this North line should intersect a number of rivers which empty their waters through a British province into the Sea, a right of navigation or passage down those rivers would doubtless have been secured to the United

(a) Vide Mr. Sullivan’s Arguments, part 3. sect. 15. 4 Purchas’ Pilgrim, page 16, 35. Sullivan’s History of Maine, page 59. Morse’s Geography, 3d Edition, 1796, p. 379. Pownall’s Topographical Description of North America, page 20.

(b) Vattel—62. 6. 17. sect. 308. Vide Post, page 184.

States by the Treaty; that this was not the intention of the Treaty, not only appears from the facts and reasoning that have been already adduced, but from a further consideration that in most, if not all, the Maps of the interior country, published before the year 1783, although the courses of the river Saint Croix are very inaccurately laid down, still it is very uniformly made to terminate in a lake near the Eastern branch of the river Penobscot; and *a line drawn north* from that termination upon those maps *will not intersect any of the rivers which empty themselves into the sea*, to the Eastward of the mouth of the river St. Croix, *except the river St. John.* (a) This furnishes an unanswerable argument, so far as any fair conclusions can be drawn from those Maps, in proof not only that the river Scoudiac is the true ancient river St. Croix, and consequently intended by the Treaty of Peace under the name of St. Croix, but that its true source is upon the Western branch, in a lake near to an Eastern branch, of the river Penobscot."

Appendix.
No. 35.
Extracts from the
Arguments of the
British Agent under
the Treaty of
1794.
6th Extract.

"*The province of Nova Scotia at the time of the treaty in 1783, was, as has already appeared, bounded to the Northward by the southern boundary of the province of Quebec; which boundary was established by the Royal proclamation of the 7th October, 1763, and confirmed by the act of the 14 Geo. 3. c. 83, passed in the same year with the Act of Parliament already cited, by which it is enacted, "that all the Territories, Islands, and countries, in North America, belonging to the crown of Great Britain, bounded on the South by a line from the Bay of Chaleurs, along the highlands which divide the rivers that empty themselves into the river Saint Lawrence from those which fall into the Sea, to a point in forty-five degrees of Northern Latitude, on the Eastern bank of the river Connecticut, &c. be annexed to, and made a part and parcel of, the province of Quebec.* (b)

"*As then, at the Treaty of Peace in 1783, the Northern limit of the province of Nova Scotia was "a line along the highlands which divide the rivers that empty themselves into the river St. Lawrence from those which fall into the Sea," it unquestionably follows that the North-west, angle of Nova Scotia at the time of the treaty of peace in 1783 was that angle which was formed by a line drawn due North from the source of the river St. Croix to those Highlands. If we now compare this Angle with the North west Angle of Nova Scotia described in the Treaty of Peace, viz: that Angle which is formed by a line drawn due North from the source of St. Croix river to the same highlands, can it be said, with any degree of propriety, that (c) "the limits and boundaries of the Province of Nova Scotia were unknown at the time of the Treaty of Peace in 1783, and that it therefore became necessary to give it western boundary by the Treaty itself, in these words, to wit—that Angle which is formed by a line due North from the Source of the river St. Croix to the Highlands?*

"*Can it be believed, or for a moment imagined, that, in the course of human events, so exact a coincidence could have happened between the actual, real boundaries of the Province of Nova Scotia, and the boundaries of it described in this Treaty, if the latter had not been dictated and regulated by the former?*

(a) There seems to have been a strong reliance placed upon the validity of this argument by the author of "The History of the District of Maine," as, in the Map annexed to that work, a line due north from the source of the river Magaquadavie is made to cross no other river but the river Saint John, and to pass to the westward of the sources of all the rivers that empty themselves into the Bay of Chaleurs or Gulf of St. Lawrence, when, in fact, a line due North from the Magaquadavie will intersect them all. Vide Map No. 16.

(b) Vide Memorial of Claim by his Majesty's Agent.

(c) Vide Mr. Sullivan's Argument, page 1. sect. 53.

Appendix.
No. 35.

Extracts from the
Arguments of the
British Agent un-
der the Treaty of
1794.

5th Extract.

“Can any man hesitate to say, he is convinced that *the Commissioners at Paris, in 1783, in forming the 2d article of the Treaty of Peace*, in which they have so exactly described this North-west Angle, *had reference and were governed by the boundaries of Nova Scotia*, as described in the grant to Sir William Alexander, and *the subsequent alteration in the Northern Boundary by the erection of the Province of Quebec?*”

“Will not this conviction become irresistible when he adverts to the reservation made to his Majesty, in this Article of the Treaty, “of such Islands as then were or theretofore had been, within the limits of the said Province of Nova Scotia?” which clearly alludes to the ancient limits of the Province of Nova Scotia, and to the islands included and comprehended within those limits, as described in the grant to Sir William Alexander, some of which might have belonged to the United States, as lying within the limits of those States, but for the exception of them in the Treaty.”

9th Extract.

“As there had been, before the Treaty of Peace in 1783, an ancient Western boundary of Nova Scotia, *established by Charter in the year 1621, at the river St. Croix*, and in consequence of the French encroachments, *there had been a reputed western boundary of Nova Scotia at the time of the Treaty of Utrecht, in 1713, at the River Penobscot*, it therefore became necessary, *in order to prevent all future controversy on the subject, to specify in the Treaty of 1783 which of these boundaries were intended*; and accordingly the former, the ancient, real and established boundary, is expressly adopted.”

20th Extract.

“The agent of the United States cannot establish his claim to the river Magaquadavie merely upon the strength of an Indian tradition, brought to light since the year 1763, that this river *is the river St Croix*, which is the only proof, or semblance of proof, yet exhibited of this fact, instead of meeting the reasoning of the underwritten agent in its own way, by authentic and full proofs, and conclusive arguments in support of his claim. The argument of the Agent of the United States would certainly apply with much greater force in proving *the Penobscot* to be the River agreed to; as this river, besides *being once known indiscriminately with the other rivers by the name of St. Croix*, has been *the reputed boundary of Nova Scotia*, and was *contended for as such by the British Commissaries at Paris*, in the year 1750, in *their memorials concerning the limits of Acadia or Nova Scotia.*”

APPENDIX, No. XXXVI.

REPORT

MADE TO

THE PRESIDENT OF THE UNITED STATES.

BY

EGBERT BENSON,

ONE OF THE COMMISSIONERS UNDER THE 5TH ARTICLE OF THE TREATY OF 19TH
NOVEMBER, 1794, RESPECTING THE TRUE RIVER ST. CROIX.

REPORT

Made to the President of the United States of America, by Egbert Benson, Esquire, one of the Commissioners appointed pursuant to the fifth Article of the treaty of Amity, Commerce and Navigation, between His Britannic Majesty and the said States, respecting the Proceedings of the said Commissioners.

On the *Question* between his Britannic Majesty and the United States of America, “what River was truly intended under the name of the River *Saint Croix*,” mentioned in the Treaty of Peace of the 3d November, 1783, and forming a part of the boundary therein described, referred to the final decision of Commissioners by the fifth Article of the Treaty of Amity, Commerce and Navigation, of the 19th November, 1794, “The *Scudiac* was claimed on the part of his Majesty, and the *Magaguadavic* on the part of the United States. *Boundaries* of the United States described in the treaty of peace, “from the North-west angle of Nova Scotia, vizt. that angle which is formed by a line drawn due North from the source of Saint Croix River to the Highland, along the said Highlands which divide those rivers that empty themselves into the River Saint Lawrence from those which fall into the Atlantic Ocean,” then follow the northern, western, and southern boundaries, and then “east by a line to be drawn along the middle of the River Saint Croix from its mouth in the Bay of Fundy to its source, and from its source, directly north to the aforesaid Highlands which divide the Rivers that fall into the Atlantic Ocean from those which fall into the River Saint Lawrence.”

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Report by Egbert Benson, one of the Commissioners under the 5th article of the treaty of 1794.

Boundaries in the Grant for *Nova Scotia*, by King James to Sir William Alexander, of the 10th September, 1621, translated from the Latin—“All and singular, the lands, continents, and Islands, situate and lying in America, within the head land or promontory called *Cape Sable*, lying near the Latitude of forty three degrees, or thereabout, from the Equinoctial line towards the North, from which promontory stretching towards the shore of the sea to the west, to a bay commonly called *St. Mary's Bay*, and then towards the North by a direct line, passing the entrance or mouth of that Great Bay, which runs into the eastern quarter between the territories of the *Sauriquois* and *Elechemises*, to a River commonly called by the name of *St. Croix*, and to the most remote spring or fountain thereof from the western quarter which first min-

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gles itself with the aforesaid River, thence by an imaginary direct line, which may be conceived to go through the land, or run towards the north to the nearest Bay, river or spring, discharging itself in the Great River of Canada, &c. &c. which certain lands shall in all future times enjoy the name of Nova Scotia in America."

It is here to be noted, that on the conquest of Canada, and the final cession of that country to the Crown of Great Britain in 1763, the Highlands abovementioned and referred to, were established as a Southern boundary of the Colony of Quebec; that Nova Scotia hath accordingly from that time hitherto been described in the Commissions to the Governors, "As bounded on the Westward by a line drawn from Cape Sable across the entrance of the Bay of Fundy to the mouth of the River *Saint Croix*, by the said River to its source, and by a line drawn due North from thence to the Southern Boundary of the Colony of Quebec; to the Northward, by the said boundary," &c. &c. &c.—That from the description in the Commissions it appears a construction had been given to an evident ambiguity in the Grant for Nova Scotia, in respect to the source of the River *Saint Croix*, and the course of the line from it; and hence it is, that at the time of the treaty of Peace, the Highlands, instead of the River Saint Lawrence, formed the north side, and a line *directly* to, or *due* north, the west side of the *North-west* angle of Nova Scotia, and that the source of the River Saint Croix, from which the line was to run, or be drawn, was the source *generally*, or that source which should be found to be eminently or *emphatically* so regardless of the position of it, or the place or *quarter* where it might be, or the distance, when compared with any other source before the waters from it mingled themselves with the River.

A River being *expressed* in the Treaty, the *Instrument* and it not being expressed, as it is either by *mistake* or *fraud*, the River *so expressed* must be adjudged to be the River *intended*. This is assumed as unquestionable; the River is expressed to be "That River, a line drawn due north from the source of which forms the west side of the north-west angle of Nova Scotia." The identity of the River Saint Croix expressed in the Treaty, and the River Saint Croix expressed in the Grant for Nova Scotia, is assumed as also unquestionable; so that the River to be sought for, is the River intended in the Grant. The two following propositions, are therefore stated, and the proofs subjoined—1st. That the River intended under the name of the River Saint Croix, in the Grant for Nova Scotia, is the River which was so named by the Sieur De Monts, 1604. And 2ndly. That the Scudiac is the River which was then so named." Extracts from a publication by Sir William Alexander, in London, 1624, under the title of *encouragement* to Colonies. "Monsieur De Monts, procuring a patent from King Henry the Fourth, of Canada from the 40th degree Eastward, comprehending all the bounds that now is between New England, and New Scotland (after that Queen Elizabeth had formerly given one thereof, as belonging to this Crown by Chabot's discovery,) did set forth with a hundred persons fitted for a plantation, carried in two Ships." After a brief relation of the voyage from France to Port Royal, he proceeds, "After this, having seen Port Royal, they went to the River called by them Sante Croix, but more fit now to be called Tweede, because it divides New England and New Scotland, bounding the one of them upon the East and the other upon the West side thereof; here they made choice of an isle that is within the middle of the same, where to winter, building houses sufficient to lodge their number." He concludes his relation by mentioning—"That in the end, finding that a little Isle was but a large prison, they resolved to return unto Port Royal." Speaking of the limits of his Patent, he says—"leaving the limits to be appointed by his Majesty's pleasure, which are expressed in the Patent granted unto me under his great Seal of his Kingdom of Scotland, marching upon the west towards the River of St. Croix, now Tweede, (where the Frenchmen did design their first habitation) with New England, and on all other parts it is compassed by the Ocean and the Great River of Canada."

To this publication a Map is annexed, in which a River is laid down under the name of Tweede, as a boundary between New England and New Scotland, and doubtless intended to represent the Saint Croix. The voyage of De Monts above referred to by Sir William Alexander, was in the spring of 1604, and has been written by two different cotemporary persons, Champlain, who was with him, and *L'Escarbot*, who came out to *L'Acadie* in 1606, with *Poitrin-court*, the successor of De Monts in the attempt to settle, and was himself the next year at *St. Croix*.

The British Commissaries, in the Memorials between them and the French Commissaries, concerning the limits of Nova Scotia or Acadia, printed in London in 1755, say,—“The most ancient Chart extant, of this country, is that which Escarbot published with his History in 1609.” And a book published in London that year by *P. Erondelle*, under the title of *Nova Francia*, &c. translated out of the French into English, is evidently a translation of this first Edition of *L'Escarbot*. Champlain published in 1613. From these writers, therefore, Sir William Alexander obtained his information of the voyage of De Monts, and of the country. They relate that De Monts, after visiting several places on the Eastern shore of the Bay of Fundy, and among them the Bay of Saint Mary and Port Royal, came, on the 24th June, to the River Saint John; and the following Extracts from them, contain the voyage thence, and other subsequent transactions material in the present enquiry.

Champlain, Edit. 1613. “From the River Saint John we were at four Islands, on one of which we were ashore, and there found a great abundance of Birds called Margoes, of which we took a number of young ones, as good as young pigeons. The Sieur Poitrin-court was near losing himself there, but finally returned to our Bark, as we were going to search for him round the Island, which is three leagues distant from the main land.

“Further to the west, there are other Islands, one containing six leagues, called by the savages *Manthane*, to the South of which there are, among the Islands, many good ports for vessels. From the Isles of *Margos* we were at a River in the main land, which is called the River of the *Etchemins*, a nation of savages so named in their own country; and we passed by a great number of Islands, more than we could count, pleasant enough, containing some two leagues, others three, others more or less. All these islands are in a bay which contains, in my judgment, more than fifteen leagues in circumference, in which there are a number of convenient places to put as great a number of vessels as one pleases, which in their season abound with fish, such as Cod, Salmon, Bass, Herrings, *Haitans*, and other fish in great numbers. Making west north west through these Islands, we entered into a large River which is almost half a league broad at its entrance, where having made a league or two, we found two Islands, the one very small, near the shore on the west, the other in the middle, which may have eight or nine hundred paces in circumference: The Banks of which are rocky, and three or four toises high, except a small place, a point of sand and clay which may serve to make bricks and other necessary things. There is another sheltered place to put vessels, from eighty to one hundred tons, but it is dry at low water. The island is filled with firs, birches, maples and oakes,—of itself, it is in a good situation, and there is only one side where it slopes about forty paces, which is easy to be fortified; the shores of the Main land, being distant on each side about nine hundred or a thousand paces. Vessels cannot pass on the river but at the mercy of the cannon on the Island, which is the place we judged best, as well for the situation, the goodness of the country, as for the communication we proposed to have with the Savages of the Coasts, and the interior country, being in the midst of them. This place is named by the name of the Island *St. Croix*. Passing higher up, one sees a great Bay, in which there are two Islands, one high, the other low; and three rivers, two of a middling size, one going off towards the East, and the other to the North

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Appendix. and the third is *large*, which goes to the West. This is that of the *Etchemins*, of which we have spoken above; going into it two leagues there is a *fall* of water, where the savages carry their canoes by land, about five hundred paces, afterwards re-entering it, from which afterwards, crossing over a small space of land, one goes into the river *Norembeque* and of St. John.

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"In this place of the fall, which the vessels cannot pass, because there is nothing but rocks, and that there is not more than four or five feet water in May and June, they take as great abundance of *Bass* and Herring, as they can lade in their vessels. The soil is very fine, and there are about fifteen or twenty acres of land cleared, where the *Sieur de Monts* sowed some grain, which came up very well. The savages stay here sometimes five or six weeks during the fishing season. All the rest of the country is a very thick forest.

"If the land was cleared, grain would grow there very well. This place is in forty five degrees and one third of Latitude, and the variation of the Magnetic needle is seventeen degrees and thirty two minutes.

"Not having found a place more fit than this island, we began to make a Barricade on a small island, a little separated from this Island, which served as a platform for our cannon.

"Every one employed himself so faithfully, that in a little time it was rendered a defence; then the *Sieur de Monts* began to employ the workmen to build the houses for our abode. After the *Sieur de Monts* had taken the place for the Magazine, which was nine toises long and three broad, and twelve feet high, he fixed on the plan of his own lodging, which was immediately built by good workmen. He then assigned to each his place."—"We then made some gardens as well on the main land as on the island."—"The *Sieur de Monts* determined on a change of place, and to make another habitation to avoid the cold, and evils which we had in the Island *St. Croix*. Not having found any port which was proper for us then, and the little time we had to lodge ourselves, and to build houses for that purpose, we caused two barks to be equipped, on which was laden the carpenters' work of the Houses of Saint Croix, to be carried to Port Royal, twenty five leagues from thence, where we judged an abode would be more mild and temperate."

In his Edition of 1632, after the above passage, where he mentions the Latitude and variation of the needle, he adds,

"In this place was the habitation made in 1604."—And then immediately commences another chapter as follows—

"From the said *River St. Croix*, continuing along the coast, making twenty-five leagues," we passed by a great number of Islands, &c.

L'Escarbot Edition, of 1618.—"Leaving the River Saint John, they came following the coast, at twenty leagues from thence, in a great River (which is properly Sea) where they encamped in a small island, in the middle of it, which being found strong by nature and of easy defence, besides that the season had began to pass, and therefore it became them to think how they were to be lodged without going further, they resolved to stay there."—"The company staid there in the middle of a large River, where the wind from the North and North west blows at pleasure, and because at two leagues above there are some streams, which coming *crosswise* do discharge themselves into this large arm of the sea. This island, the retreat of these French, was called *Sainte Croix*, twenty-five leagues more distant than Port Royal."

"Before we speak of the return of the ships to France, it becomes us to say that the Island of Saint Croix is very difficult to be found by one who has never been there: For there are so many islands and great Bays to pass before one comes there, that I am astonished how any one had the patience to penetrate so far to go to find it. There are *three or four mountains* high above the others on the coasts, but on the

north part from where the River comes down, there is a *pointed one* more than two leagues distant. The woods of the Main land are handsome and high to admiration, and so is the herbage; there are streams of fresh water very agreeable, where many of the people of the *Sieur de Monts* did their work and huddled there. As to the nature of the soil, it is very good, and happily fruitful; for the *Sieur de Monts*, having caused a piece of land to be cultivated and sown with Rye, (I have not seen any wheat there) he had not the means to attend to its maturity to gather it, the grain which fell, had notwithstanding grown and shot up again wonderfully, so that two years after we gathered of it as fair, large and heavy as any in France, and which this soil has produced without culture, and at present it continues to increase every year; the said Island is about half a French league in circuit, and at the end towards the sea there is a Hillock, and as it were a separate small island where the said *Sieur de Monts* placed his cannon; and there is also a small chapel built in the fashion of the savages, at the foot of which there are so many muscels as to be wonderful, which may be gathered at low water; but they are small.

“During the said voyage, the *Sieur de Monts* worked at his fort, which he had seated at the end of the island opposite the place where we have said he lodged his cannon, which was prudently considered, to the end to command the River up and down; but there was one inconvenience that the said Fort was on the side to the North without any shelter except the trees which were on the Bank of the island, all of which thereabout he had forbid to be cut down. Without the fort the Swiss had their Barracks, which were large and ample, and some small ones making an appearance like a suburb; some had their huts on the main land, near the stream, but within the fort; were the lodgings of the said *Sieur de Monts*, made of fair and skilful carpentry with the banner of France on the top.

“In another part was the Magazine, where was deposited the safety and life of all; also of good carpentry and covered with shingles, and opposite to the Magazine were the lodgings, and houses of the *Sieur De Orville Champlain, Champdore*, and other persons of distinction; opposite to the lodgings of the said *Sieur de Monts* was a covered gallery, to exercise for amusement, or for the workmen when it rained; and between the said fort and the platform of the cannon, all was filled with gardens.

“The severe season being passed, the *Sieur de Monts*, tired of his sorrowful abode of *Sainte Croix*, determined to search for another port in a country more warm and more to the south. Having seen the coast of *Mallabarre*, and with much labour, without finding what he desired, he determined to go to *Port Royal*, to make his stay there, and wait until he should have the means to make a more ample discovery: So every one was employed to bind up his pack, and they demolished what they had built with infinity of labour, except the Magazine, which was too large to be transported.”

Subsequent to the view of the mouths of the Rivers in question, and the adjacent objects, by the Commissioners, at the instance of the Agents, in the fall of 1796, the Edition of *Champlain*, of 1613, was procured from Europe, containing a Map of the isle *Sainte Croix*, a copy of which is hereunto annexed, and a search having been then made by digging into the soil on the island called *Bone, or Duclias*, Island, bricks, charcoal, spikes, and other artificial articles have been found, and evident foundations of buildings have been traced. Whoever will compare these proofs with the Bay of *Passamaquoddy*, including the islands and river in it, will perceive that they result in demonstration that the Island *St. Croix*, and the River *St. Croix*, intended by them, are respectively *Bone Island*, and the River *Scudiac*, comprehending in the latter the arm of the Bay, or as it is expressed by *L'Escarbot*, *Sea*, between where the mouth of the River has been decided to be, at *Joe's Point*, and where it turns to the westward at the *Devil's Head*, as being at the time when the name of *Saint Croix* was originally given to the *Scudiac*, then actually, however *improperly*, conceived to be a portion

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of it, and accordingly denominated RIVER; and here it would seem there would have been an end of the Question. But the Agent on the part of the United States stated "that Mitchell's Map published, in 1755, was before the Commissioners who negotiated and concluded the provisional treaty of peace at Paris in 1782; from that they took their ideas of the country, upon that they marked the dividing line between the two nations, and by the line marked upon it their intention is well explained, that the River intended by the name of the Saint Croix, in the Treaty, was the Eastern river which empties its waters into the Bay of Passamaquoddy."

And he thereupon offered in evidence the testimony of the Three American Commissioners, as contained in the following depositions of two of them, and Letter from the other, to Mr. Secretary Jefferson, of the 8th of April, 1790, and also a Map of Mitchell, as the identical copy which the Commissioners had before them at Paris, having been found deposited in the Office of Secretary of State for the United States, and having the eastern boundary of the United States, traced on it with a pen or pencil, through the middle of the river Saint Croix, as laid down on the Map, to its source, and continued thence North, as far as to where most probably it was supposed by whoever it was done.—The Highlands mentioned in the Treaty, are:

PRESIDENT ADAMS' DEPOSITION.

"Mitchell's Map was the only Map or plan which was used by the Commissioners at their public conferences, though other Maps were occasionally consulted by the American Commissioners, at their lodgings. The British Commissioners at first claimed to Piscataqua river, then to Kennebec, then to Penobscot, and at length agreed to St. Croix, as marked on Mitchell's map. One of the American Ministers at first proposed the River Saint Johns, as marked on Mitchell's map; but his colleagues observing that as *St. Croix* was the River mentioned in the charter of Massachusetts Bay they could not justify insisting on St. Johns, as an ultimatum, he agreed with them to adhere to the charter of Massachusetts Bay; but whether it was understood, intended, or agreed between the British and American Commissioners, that the River *St. Croix*, as marked on Mitchell's map, should so be the boundary as to preclude all inquiry respecting any error or mistake in the said Map, in designating the River Saint Croix, or whether there was any, and if so, what understanding, intent, or agreement between the Commissioners relative to the case of error or mistake in this respect, in the said Map, that the case of such supposed error, or mistake, was not suggested, and consequently there was no understanding, intent or agreement expressed respecting it."

GOVERNOR JAY'S DEPOSITION.

"In the course of the negotiations, difficulties arose respecting the eastern boundary of the United States. Mitchell's map was before them, and frequently consulted for Geographical information. In settling the boundary line (described in the Treaty) and of which the River Saint Croix forms a part, it became a question, which of the rivers in those parts was the true River St. Croix, it being said that several of them had that name. They did finally agree that the River St. Croix laid down in Mitchell's Map, was the River Saint Croix which ought to form a part of the said boundary line; but whether that river was so decidedly and permanently adopted and agreed upon by the parties as conclusively to bind the two nations to that limit, even in case it should afterwards appear that Mitchell had been mistaken, and that the true River Saint Croix was a different one from that which is delineated by that name in his Map, is a question or a case which he does not recollect, nor believe, was then put or talked of. For his own part, he was of opinion that the Easterly boundaries of the United States, ought, on principles of right and justice, to be the same with the Easterly boundaries of the late Colony or Province of Massachusetts."

DR. FRANKLIN'S LETTER.

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No. 36.Report by Robert
Benson, one of the
Commissioners, in
answer to the address
of the treaty of
1794.

"I received your letter of the 31st past, relating to the encroachments made on the Eastern limits of the United States, by settlers under the British Government, pretending that it is the Western and not the Eastern river, of the Bay of Passamaquoddy, which was designated by the name of Saint Croix in the Treaty of Peace with that nation, and requesting me to communicate any facts which my memory or papers may enable me to recollect, and which may indicate the true River the Commissioners had in view to establish as the boundary between the two nations. I can assure you that I am perfectly clear in the remembrance that the Map we used in tracing the boundary between the two nations, was brought to the Treaty, by the Commissioners from England, and that it was the same that was published by Mitchell, above twenty years before. That the Map we used was Mitchell's Map, Congress was acquainted at the time by a letter to their Secretary for Foreign Affairs, which I suppose may be found upon their files." The Agent on the part of His Majesty having excepted to these proofs, on the ground that the matter to be proved by them was not admissible in evidence, they were received, subject to the eventual opinion of the Board on the Question, whether they were to be retained or rejected? A boundary line which Mitchell has on his Map, is the only indication of the river he intended by the Saint Croix; his intent or *mind* in this respect cannot be discovered from the relative situation of the River, or of the lake, laid down as its source, or from the course or length of the River, or the form or magnitude of the lake, or indeed from the supposed representations of any natural or sensible objects; that part of the Map which contains the Bay of Passamaquoddy, and the rivers issuing into it, being, as to such objects, erroneous or imperfect in the extreme:—The boundary line alluded to, is drawn along the western side of the River Saint Croix to the Lake as its source and thence round along the Southerly and Westerly sides, and so far along the northerly side of the lake, until it comes to the most northern part of it, and thence it is *direct towards the North*, "to the river St. Barnabas, being the nearest river discharging itself into the Great River of Canada." This line was certainly intended to represent, what was esteemed at the time to be the boundary of Nova Scotia, from the mouth of the St. Croix to the River of St. Lawrence.

The Map and the other proofs connected with it, therefore, instead of being of any avail to the party exhibiting them, they are in confirmation of the very principle of the claim of the opposite party, that the River intended in the Treaty, is the River intended in the Grant for Nova Scotia; the reasoning from them being briefly that the immediate Agents who made the Treaty, intended the River which was intended by Mitchell, and that he intended the river which was intended in the Grant for Nova Scotia; so that, as doubtless will be perceived, any further consideration of these proofs, or a decision of the question respecting them, reserved for the opinion of the Board, became unnecessary.

With respect to the *source* of the river, the difficulties which occurred in determining it may easily be imagined.

In all cases it would be difficult to determine the source of a river, when it is to be ascertained to a precise *spot*, to a *point* from which a *line* is to be drawn.

If it is to be ascertained, or as it may be phrased, *found*, as a previously assumed *station*, in a boundary, evidence of where *strangers* reputed it to be, or where parties intended it should be deemed to be, might be proper, and under the circumstances of the case, to be adopted as that which ought to be preferred, and as competently decisive.

No such evidence, however, existed in the present instance: the several branches and head waters of the river have remained unexplored, and the adjacent country unsettled, and almost unfrequented; so that the only knowledge of the river, from the Falls

Appendix. in it upwards was scarcely more than what was primitively communicated to the first
 N. 36. voyagers there, by the aboriginal savages; namely, that from the head waters to the

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 Benson, one of the
 Commissioners under
 the 5th article
 of the treaty of
 1791.

west, there was a portage to the Norembeque, now Penobscot; and from those to the north, there was one to the St. John; let it suffice therefore to intimate, that the reference, as it respected the *source* of the River, being as it were an appeal to mere judgment or opinion, is in that view analogous to cases of assessment of damages not capable of being liquidated by *calculation*, or definite rule, and therefore to be assessed according to *discernment*, or discretion; a latitude of arbitrament is in such cases supposed to be permitted to the Jurors, but as they must at the same time agree in a *precise* sum, accommodation of sentiment among them to a degree is necessary, and consequently justifiable. There is still a question concerning the boundary between the two nations, in that quarter, and originating also in the Treaty of Peace; but partaking of the nature of an *omitted case*, can be settled only by negotiation, and compact.

The Treaty supposes the St. Croix to issue *immediately* into the Bay of Fundy, and of course, that there would be an entire sea board boundary, if it may be so expressed, between the termination of the Southern, and the commencement of the eastern boundary of the United States; and it also intended, that where the eastern boundary passed through waters which were navigable, that both nations should equally participate in the navigation. The Question then is, How is the boundary in the intermediate space between where the mouth of the St. Croix hath been decided to be, and the Bay of Fundy, to be established, most consistent with the Treaty? In answer to which it may be suggested, that the boundary should be a line, passing through one of the passages between the Bay of Fundy and the Bay of Passamaquoddy; that the west passage being unfit for the purpose, having a Bar across it, which is dry at low water, the next to it must be taken, and the line may be described—Beginning in the middle of the channel of the river St. Croix, at its mouth; thence direct to the middle of the channel between Point Pleasant, and Deer Island; thence through the middle of the channel between Deer Island on the East and North, and Moose Island and Campo Bello Island, on the West and South, and round the eastern point of Campo Bello Island, to the Bay of Fundy.

October 25th, 1799. The Commissioners decided the *Scudiac*, and the northern branch of it, to be the river intended in the Treaty under the name of St. Croix, and that its mouth was at Joe's Point.

Filed with the four annexed Maps and Charts at Boston, 11th June, 1817.

ANTH: BARCLAY,
Secretary Ath. Art. Tr. Ghent.

A true copy.

Attest,
 ANTH: BARCLAY,
Secretary.

APPENDIX, No. XXXVII.

EXTRACTS

FROM THE

COMMISSIONS OF GOVERNORS OF NEW BRUNSWICK.

GUY CARLETON, 1786.

Fifth part of Patents in the twenty-sixth year of King George the Third.

SIR GUY CARLETON, K. B.

Governor of New Brunswick.

George the Third by the grace of God of Great Britain France and Ireland King Defender of the Faith and so forth To our trusty and welbeloved Sir Guy Carleton Knight of the Most Honorable Order of the Bath Greeting Whereas wee did by our Letters Patent under our Great Seal of Great Britain bearing date at Westminster the *sixteenth day of August in the twenty-fourth year of our Reign* constitute and appoint Thomas Carleton Esquire to be our Captain General and Governor in Chief in and over our Province of New Brunswick in America bounded as in our said recited Letters Patent was mentioned and expressed Now know ye that wee have revoked and determined and by these presents do revoke and determine the said recited Letters Patent and every clause matter and thing therein contained And further know ye that wee reposing especial trust and confidence in the prudence courage and loyalty of you the said Sir Guy Carleton of our special grace certain knowledge and mere motion have thought fit to appoint you the said Sir Guy Carleton to be our Captain General and Governor in Chief in and over our Province of New Brunswick in America bounded on the westward by the mouth of River Saint Croix by the said River to its source and by a line drawn due north from thence to the southern boundary of our Province of Quebec to the northward by the said boundary as far as the western extremity of the Bay des Chaleurs to the eastward by the said Bay and the Gulph of Saint Lawrence to the Bay called Bay Verte to the south by a line in the centre of the Bay of Fundy from the River Saint Croix aforesaid to the mouth of the Musquat River by the said River to its source and from thence by a due east line across the Isthmus into the Bay Verte to join the eastern line above described including all Islands within six leagues of the Coast with all the rights members and appurtenances whatsoever thereunto belonging.

Witness ourself at Westminster the twenty-seventh day of April in the twenty-sixth year of our Reign.

By Writ of Privy Seal.

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Extracts from the
Commissions of
the Governors of
New Brunswick.
Guy Carleton. 1786.

Appendix.
No. 27.

JAMES HENRY CRAIG, NEW BRUNSWICK, 1807.

Twelfth part of Patents in the forty-seventh year of King George the Third

Extracts from the
Commissions of
the Governors of
New Brunswick.

SIR JAMES HENRY CRAIG K. B.

Governor of New Brunswick.

James H. Craig,
1807.

George the Third by the grace of God of the United Kingdom of Great Britain and Ireland King Defender of the Faith To our trusty and welbeloved Sir James Henry Craig Knight of the Most Honorable Order of the Bath Lieutenant General of our Forces Greeting Whereas we did by our Letters Patent under our Great Seal of Great Britain bearing date *the twenty-eighth day of February in the thirty-seventh year of our Reign constitute and appoint* our trusty and welbeloved *Robert Prescott Esquire* Governor General of our Forces to be our Captain General and *Governor in Chief* in and over our Province of New Brunswick in America bounded on the westward by the mouth of the River Saint Croix by the said River to its source and by a line drawn due north from thence to the southern boundary of our Province of Quebec to the northward by the said boundary as far as the western extremity of the Bay des Chateaux to the eastward by the said Bay and the Gulph of Saint Lawrence to the Bay called the Bay Verte to the south by a line in the centre of the Bay of Fundy from the River St. Croix aforesaid to the mouth of the Musquat River by the said River to its source and from thence by a due east line across the Isthmus into the Bay Verte to join the eastern line above described including all Islands within six leagues of the Coast with all the rights members and appurtenances whatsoever thereunto belonging Now know you and wee have revoked and determined and by these presents do revoke and determine the said recited Letters Patent and every clause article and thing therein contained And further know you that we reposing especial trust and confidence in the prudence courage and loyalty of you the said Sir James Henry Craig of our especial grace certain knowledge and meer motion have thought fit to *appoint you the said Sir James Henry Craig* to be our Captain General and *Governor in Chief* in and over our said Province of New Brunswick bounded as hereinbefore described.

In Witness &c. Witness &c. the twenty-ninth day of August.

By Writ of Privy Seal.

SIR GEO. PREVOST, NEW BRUNSWICK, 1811.

First part of Patents in the fifty-first year of King George the Third.

SIR GEORGE PREVOST Bart.

Governor of New Brunswick.

Sir Geo. Prevost,
1811.

George the Third by the grace of God of the United Kingdom of Great Britain and Ireland King Defender of the Faith To our trusty and welbeloved Sir George Prevost Baronet Lieutenant General of our Forces Greeting Whereas we did by our Letters Patent under our Great Seal of our United Kingdom of Great Britain and Ireland bearing date the twenty-ninth day of August one thousand eight hundred and seven in the forty-seventh year of our Reign constitute and appoint our trusty and welbeloved *Sir James Henry Craig* Knight of the Most Honorable order of the Bath Lieutenant General of our Forces to be our Captain General and *Governor in Chief* in and over our Province of New Brunswick in America bounded on the westward by the mouth of the River Saint Croix by the said River to its source

and by a line drawn due north from thence to the southern boundary of our Province of Quebec to the northward by the said boundary as far as the western extremity of the Bay de Chaleurs to the eastward by the said Bay and the Gulph of St. Lawrence to the Bay called Bay Verte to the south by a line in the centre of the Bay of Fundy from the River St. Croix aforesaid to the mouth of the Musquat River by the said River to its source and from thence by a due east line across the Isthmus into the Bay Verte to join the eastern line above described including all Islands within six leagues of the Coast with all the rights members and appurtenances whatsoever thereunto belonging Now know you that we have revoked and determined and by these presents do revoke and determine the said recited Letters Patent and every clause article and thing therein contained And further know you that we reposing especial trust and confidence in the prudence courage and loyalty of you the said Sir George Prevost of our especial grace certain knowledge and meer motion have thought fit to appoint you the said *Sir George Prevost* to be our Captain General and Governor in Chief in and over our said Province of New Brunswick bounded as hereinbefore described.

Appendix.
No. 37.

Extracts from the
Commissions of the
Governors of New
Brunswick.

Sir Geo. Prevost,
1811.

In witness &c. Witness &c. the twenty-first day of October.

By Writ of Privy Seal.

J. C. SHERBROOKE, NEW BRUNSWICK, 1816.

Seventh part Patents of the fifty-sixth year of King George the Third.

George the Third by the grace of God of the United Kingdom of Great Britain and Ireland King Defender of the Faith To our trusty and welbeloved Sir John Cope Sherbrooke Knight Grand Cross of the Most Honorable Military Order of the Bath Lieutenant General of our Forces Greeting We reposing especial trust and confidence in the prudence, courage and loyalty of you the said Sir John Cope Sherbrooke of our especial grace certain knowledge and meer motion have thought fit to constitute and appoint you the said *Sir John Cope Sherbrooke* to be our Captain General and Governor in Chief in and over our Province of New Brunswick in America bounded on the westward by the mouth of the River St. Croix by the said River to its source and by a line drawn due north from thence to the southern boundary of our Province of Quebec to the northward by the said boundary as far as the western extremity of the Bay de Chaleurs to the eastward by the said Bay and the Gulph of Saint Lawrence to the Bay called Bay Verte to the south by a line in the centre of the Bay of Fundy from the River St. Croix aforesaid to the mouth of the Musquat River by the said River to its source and from thence by a due east line across the Isthmus into the Bay Verte to join the eastern line above described including all Islands within six leagues of the Coast with all the rights members and appurtenances whatsoever thereunto belonging.

J. C. Sherbrooke,
1816.

In witness &c. Witness &c. the tenth day of April.

By Writ of Privy Seal.

DUKE OF RICHMOND, NEW BRUNSWICK, 1818.

Eighth part Patents of the fifty-eighth year of King George the Third.

George the Third by the grace of God of the United Kingdom of Great Britain and Ireland King Defender of the Faith To our right trusty and right entirely beloved Cousin and Councilor Charles Duke of Richmond Knight of the Most Noble Order

Duke of Richmond
1818.

Appendix.
No. 37.

EXTRACTS FROM THE
COMMISSIONS OF THE
GOVERNORS OF NEW
BRUNSWICK
Duke of Richmond
1818

of the Garter General of our Forces Greeting Whereas we by our Letters Patent under our Great Seal of our United Kingdom of Great Britain and Ireland bearing date the tenth day of April one thousand eight hundred and sixteen in the fifty-sixth year of our Reign constitute and appoint our trusty and welbeloved *Sir John Coape Sherbrooke* Knight Grand Cross of the Most Military Order of the Bath Lieutenant General of our Forces to be our Captain General and *Governor in Chief in and over our Province of New Brunswick* in America bounded on the westward by the mouth of the River *St. Croix* by the said River to its source and by a line drawn due north from thence to the southern boundary of our Province of Quebec to the northward by the said boundary as far as the western extremity of the Bay de Chaleurs to the eastward by the said Bay and the Gulph of Saint Lawrence to the Bay called Bay Verte to the south by a line in the centre of the Bay of Fundy from the River Saint Croix aforesaid to the mouth of the Musquat River by the said River to the source and from thence by a due east line across the Isthmus into the Bay Verte to join the eastern line above described including all Islands within six leagues of the Coast with all the rights members and appurtenances whatsoever thereunto belonging Now know you that we have revoked and determined and by these presents do revoke and determine the said recited Letters Patent and every clause article and thing therein contained And further know you that we reposing especial trust and confidence in the prudence courage and loyalty of you the said Charles Duke of Richmond of our especial grace certain knowledge and meer motion have thought fit to constitute and appoint you the said *Charles Duke of Richmond* to be our Captain General and *Governor in Chief* in and over our said Province of New Brunswick bounded as hereinbefore described.

In witness &c. Witness &c. the eighth day of May.

By Writ of Privy Seal.

EARL OF DALHOUSIE, NEW BRUNSWICK, 1819.

Second part Patents of the first year of King George the Fourth.

Earl of Dalhousie,
1819

George the Fourth by the grace of God of the United Kingdom of Great Britain and Ireland King Defender of the Faith To our right trusty and right welbeloved Cousin and Councillor George Earl of Dalhousie of that part of our United Kingdom called Scotland Knight Grand Cross of the Most Honorable Military Order of the Bath Lieutenant General of our Forces Greeting Know you that we reposing especial trust and confidence in the prudence courage and loyalty of you the said *George Earl of Dalhousie* of our especial grace certain knowledge and meer motion have thought fit to constitute and appoint you to be our *Captain General and Commander in Chief* in and over our Province of New Brunswick in America bounded on the westward by the mouth of the River Saint Croix by the said River to its source and by a line drawn due north from thence to the southern boundary of our Province of Quebec to the northward by the said boundary as far as the western extremity of the Bay de Chaleurs to the eastward by the said Bay and the Gulph of Saint Lawrence to the Bay called Bay Verte to the south by a line in the centre of the Bay of Fundy from the River Saint Croix aforesaid to the mouth of the Musquat River by the said River to its source and from thence by a due east line across the Isthmus into the Bay Verte to join the eastern line above described including all Islands within six leagues of the Coast with all the rights members and appurtenances whatsoever thereunto belonging.

In witness &c. Witness &c. the twelfth day of April.

By Writ of Privy Seal

APPENDIX, No. XXXVIII.

EXTRACTS

FROM

THE COMMISSIONS OF GOVERNORS, & c.

OF THE

PROVINCES OF UPPER AND LOWER CANADA.

SIR JAMES HENRY CRAIG, K. B. UPPER AND LOWER CANADA, 1807.

Twelfth Part of Patents in the Forty seventh year of King George the Third.

SIR JAMES HENRY CRAIG K. B.

Governor of Upper and Lower Canada.

George the Third by the grace of God of the United Kingdom of Great Britain and Ireland King Defender of the Faith To our Trusty and welbeloved Sir James Henry Craig Knight of the most Honorable Order of the Bath Lieutenant General of our Forces Greeting Whereas we did by our Letters Patent under our Great Seal of Great Britain bearing date *the fifteenth day of December one thousand seven hundred and ninety-six* in the thirty-seventh year of our reign constitute and *appoint our trusty and welbeloved Robert Prescott Esquire* Lieutenant General of our Forces to be our Captain General and *Governor in Chief* of our province of Upper Canada and of our province of *Lower Canada* respectively *bounded by a line to commence at a stone boundary on the north bank of the Lake Saint Francis* at the Cove west of point au Baudet in the limit between the township of Lancaster and the Seigneurie of New Longueuil running along the said limit in the direction of north thirty-four degrees west to the westernmost angle of the said Seigneurie of New Longueuil thence along the north western Boundary of the Seigneurie of Vaudreuil running north twenty five degrees east until it strikes the Ottawas River to ascend the said river into the Lake Tomies Canning and from the head of the said Lake by a line drawn due north until it strikes the boundary line of Hudson's Bay The province of Upper Canada to comprehend all such Lands Territories and Islands lying to the westward of the said line of Division as were part of our said province of Quebec and *the province of Lower Canada to comprehend all such Lands Territories and Islands lying to the eastward of the said line of Division as were part of our said province of Quebec* Now know you that we have revoked and determined and by these presents do revoke and determine the said recited Letters Patent and every clause matter and thing therein contained And further know you that we reposing especial trust and confidence in the prudence courage and loyalty of you the said Sir James Henry Craig of our especial grace certain knowledge and meer motion have thought fit to constitute and *appoint you the said Sir James Henry Craig* to be our Captain General and *Governor in Chief* of our said province of Upper Canada and of *our said province of Lower Canada* respectively *bounded as hereinbefore mentioned.*

Appendix.
No. 38.

Extracts from the
Commissions of the
Governors of Upper
and Lower Canada.

Sir James Henry
Craig, K. B. 1807.

In Witness &c. Witness &c. the twenty ninth day of August.

By Writ of Privy Seal.

Appendix.
No. 38.

SIR GEORGE PREVOST, UPPER AND LOWER CANADA, 1811.

Ninth Part of Patents in the fifty-first year of King George the Third.

Extracts from the
Commissions of the
Governors of Up-
per and Lower Ca-
nada.

SIR GEORGE PREVOST BART.

Governor of Canada.

Sir Geo. Prevost,
1811.

George the Third by the grace of God of the United Kingdom of Great Britain and Ireland King Defender of the Faith To our trusty and welbeloved Sir George Prevost Baronet Lieutenant General of our Forces Greeting Whereas we did by our Letters patent under our Great Seal of our United Kingdom of Great Britain and Ireland bearing date the 29th day of August one thousand eight hundred and seven in the forty seventh year of our reign constitute and appoint our trusty and well beloved *Sir James Henry Craig* Knight of the most Honorable order of the Bath Lieutenant General of our Forces to be our Captain General and *Governor in Chief of our Province of Upper Canada and of our Province of Lower Canada* respectively bounded by a line to commence at a stone boundary on the north bank of the *Lake St. Francis* at the Cove west of Point au Baudet in the limit between the township of Lancaster and the Seigneurie of New Longueuil running along the said limit in the direction of north thirty four degrees west of the westernmost angle of the said Seigneurie of New Longueuil thence along the north western boundary on the Seigneurie of Vaudreuil running north twenty-five degrees east until it strikes the Ottawas river to ascend the said river into the Lake Tomis Canning and from the head of the said Lake by a line drawn due north until it strikes the boundary line of Hudson's Bay the province of Upper Canada to comprehend all such lands Territories and Islands lying to the westward of the said line of division as were part of our said province of Quebec and the Province of Lower Canada to comprehend all such lands Territories and Islands lying to the eastward of the said line of division as were part of our said Province of Quebec—Now know you that we have revoked and determined and by these presents do revoke and determine the said recited Letters patent and every clause article or thing therein contained And further know you that we reposing especial trust and confidence in the prudence courage and loyalty of you the said Sir George Prevost of our especial grace certain knowledge and meer motion have thought fit to constitute and appoint you the said *Sir George Prevost* to be our Captain General and *Governor in Chief* of our said province of Upper Canada and of our said province of Lower Canada respectively bounded as herein before described.

In Witness &c. Witness &c. the twenty-first day of October.

By Writ of Privy Seal.

J. C. SHERBROOKE, UPPER AND LOWER CANADA, 1816.

Sixth Part Patents of the Fifty-sixth year of King George the Third.

J. C. Sherbrooke,
1816.

George the Third by the grace of God of the United Kingdom of Great Britain and Ireland King Defender of the Faith To our trusty and welbeloved Sir John Coape Sherbrooke Knt Grand Cross of the most Honorable Military order of the Bath Greeting Whereas we did by our Letters patent under our Great Seal of our United Kingdom of Great Britain and Ireland bearing date the *twenty eighth day of December one thousand eight hundred and fourteen* in the fifty fifth year of our reign appoint our trusty and welbeloved *Gordon Drummond Esqr.* Lieutenant General of our Forces to administer the Government of our province of Upper Canada and of our province of Lower Canada respectively bounded by a line to commence at a

stone boundary on the north bank of the Lake St. Francis at the Cove west of Point au Baudet in the limit between the township of Lancaster and the Seigneurie of New Longueuil running along the said limit in the direction of north thirty four degrees west to the westernmost angle of the said Seigneurie of New Longueuil thence along the north western boundary of the Seigneurie of Vaudreuil running north twenty five degrees east until it strikes the Ottawas river to ascend the said river into the Lake Tomis Canning and from the head of the said Lake by a line drawn due north until it strikes the boundary line of Hudson's Bay—The Province of Upper Canada to comprehend all such lands territories and islands lying westward of the said line of division as were part of our province of Quebec and the province of Lower Canada to comprehend all such Lands Tenements and Islands lying to the eastward of the said Line of division as were part of our said province of Quebec Now know Ye that we have revoked and determined and by these presents do revoke and determine the said recited Letters patent and every clause article or thing therein contained And further know you that we reposing especial trust and confidence in the prudence courage and loyalty of you the said Sir John Coape Sherbrooke of our especial grace certain knowledge and mere motion have thought fit to constitute and appoint you the said Sir John Coape Sherbrooke to be our Captain General and Governor in Chief of our said province of Upper Canada and of our said province of Lower Canada respectively bounded as hereinbefore described.

Appendix.
No. 38.
Extracts from the
Commission of the
Governors of Up-
per and Lower Ca-
nada.

J. C. Sherbrooke,
1816.

In Witness, &c. Witness &c. the twenty fifth day of March.

By Writ of Privy Seal.

DUKE OF RICHMOND, UPPER AND LOWER CANADA, 1818.

Eighth Part Patents of the Fifty-eighth year of King George the Third.

George the Third by the grace of God of the United Kingdom of Great Britain and Ireland King Defender of the Faith To our Right Trusty and Right entirely beloved Cousin and Councillor Charles Duke of Richmond Knight of the most Noble order of the Garter General of our Forces Greeting Whereas we did by our Letters patent under our Great Seal of our United Kingdom of Great Britain and Ireland bearing date the twenty-fifth day of March in the fifty-sixth year of our reign constitute and appoint our trusty and welbeloved Sir John Coape Sherbrooke Knight Grand Cross of the most Honorable Military order of the Bath Lieutenant General of our Forces to be our Captain General and Governor in Chief in and over our province of Upper Canada and our province of Lower Canada respectively bounded by a line to commence at a stone Boundary on the north Bank of the Lake St. Francis at the Cove west of Port au Baudet in the limit between the township of Lancaster and the Seigneurie of New Longueuil running along the said limit in the direction of north thirty-four degrees west to the westernmost angle of the said Seigneurie of New Longueuil thence along the north-western boundary of the Seigneurie of Vaudreuil running north twenty five degrees East until it strikes the Ottawas river to ascend the said river into the Lake Tomis Canning and from the head of the said Lake by a line drawn due north until it strikes the boundary Line of Hudson's Bay The Province of Upper Canada to comprehend all such lands territories and Islands lying to the westward of the said line of Division as were part of our Province of Quebec and the Province of Lower Canada to comprehend all such Lands Territories and Islands lying to the eastward of the said line of Division as were part of our said province of Quebec Now know you that we have revoked and determined and by these presents do revoke and determine the said re-

Duke of Richmond.
1818.

Appendix. cited Letters patent and every clause article or thing therein contained And further
 No. 38. know you that we reposing especial trust and confidence in the prudence courage and
 Extracts from the loyalty of you the said Charles Duke of Richmond of our especial grace certain know-
 Commissioners of the ledge and meer motion have thought fit to constitute and *appoint you the said Charles*
 Governors of Up- *Duke of Richmond* to be our Captain General and *Governor in Chief of our said*
 per and Lower Ca- *province of Upper Canada and of our said province of Lower Canada respectively*
 nada. *bounded as hereinbefore described.*
 Duke of Richmond
 1819.

In Witness &c. Witness &c. the eighth day of May.

By Writ of Privy Seal.

EARL OF DALHOUSIE, UPPER AND LOWER CANADA, 1819.

Second Part Patents of the first year of King George the Fourth.

Earl of Dalhousie, 1819. George the Fourth by the grace of God of the United Kingdom of Great Britain and Ireland King Defender of the Faith To our trusty and right welbeloved Cousin and Councillor George Earl of Dalhousie of that part of our United Kingdom called Scotland Knight Grand Cross of the most Honorable Military Order of the Bath Lieutenant General of our Forces Greeting Know you that we reposing especial trust and confidence in the prudence courage and Loyalty of you the said *George Earl of Dalhousie* of our especial grace certain knowledge and mere motion have thought fit to constitute and *appoint you to be our Captain General and Governor in Chief* in and over our province of Upper Canada and in and over *our province of Lower Canada* respectively *bounded by a line to commence at a stone boundary on the north bank of the Lake St. Francis* at the Cove west of the Point au Baudet in the limit between the township of Lancaster and the Seigneurie of New Longueuil running along the said limit in the direction of north thirty-four degrees west to the westernmost angle of the said Seigneurie of New Longueuil thence along the north western boundary of the Seigneurie of Vaudreuil running north twenty-five degrees east until it strike the Ottawas River to ascend the said river into the Lake Tomis Canning and from the head of the said Lake by a line drawn due north until it strikes the boundary line of Hudson's Bay The Province of Upper Canada to comprehend all such lands Territories and Islands lying to the westward of the said line of division as were part of our Province of Quebec and *the province of Lower Canada to comprehend all such lands Territories and Islands lying to the eastward of the said line of Division as were part of our said province of Quebec.*

* * * * *
 In Witness &c. Witness &c. the twelfth day of April.

By Writ of Privy Seal.

APPENDIX, No. XXXIX.

EXTRACTS

FROM

PINKERTON'S MODERN GEOGRAPHY, REES' CYCLOPÆDIA,

AND

SUPPLEMENT TO ENCYCLOPÆDIA BRITANNICA.

MODERN GEOGRAPHY, BY JOHN PINKERTON.

"SCOTLAND.—CHAPTER IV.

"Face of the country.—The face of the country is in general mountainous, to the extent, perhaps, of two thirds; whence the population is of necessity slender, in comparison with the admeasurement. But the name of Highlands is more strictly confined to Argyleshire, the coast of Perthshire, and of Inverness; and the entire counties of Ross, Sutherland, and Caithness."

Appendix.
No. 39.
Extract from Pinkerton's Geography.

EXTRACT

FROM GUTHRIE'S GEOGRAPHICAL GRAMMAR.—SCOTLAND.

"Boundaries.—Scotland is bounded on the South by England; and on the North, East, and West, by the Deucalionian, German, and Irish seas, or more properly, the Atlantic Ocean."

Extract from Guthrie's Geographical Grammar.

THE CYCLOPEDIA.

BY ABRAHAM REES.

"Highlands, a natural division of Scotland, formed by the Grampian Mountains, and including the northern and mountainous Provinces, and applied to this part of the country in contradistinction to the "Lowlands," which comprehend the southern districts. The appellation of Highlands is more strictly confined to Argyleshire, the coast of Perthshire, and of Inverness, and the entire counties of Ross, Sutherland, and Caithness, extending also to the Hebrides or Western Isles. The whole of this district is wild, rugged, and mountainous, separated by vales, from which the direct rays of the sun are for some months intercepted by the elevated mountain, and into which the rivers flowing from them are precipitated."

Extract from Rees' Cyclopædia.

EXTRACT

FROM THE SECOND VOLUME OF THE SUPPLEMENT TO THE ENCYCLOPÆDIA
BRITANNICA.—ARTICLE "CALEDONIAN CANAL."

* * * * *

"So early as the year 1773, Mr. James Watt, of Soho, to whom mankind and the arts are so much indebted for his improvements in the steam engine, was appointed by the Trustees or Commissioners for certain forfeited estates in Scotland, to make a survey of the central Highlands. Mr. Watt, in his report to that public body, recommended, amongst other improvements for the Highlands, the formation of the Crinan Canal, which has, long since, been executed, and also the Caledonian Canal, from Inverness to Fort William, now in progress, and which we are immediately to describe. * * * * *

* * * * *

The Lords of the Treasury, in 1802, directed Mr. Telford, Civic Engineer, to make a survey of the coasts and central Highlands of Scotland. The Report which he in consequence drew up, involves a variety of considerations connected with the improvement of the Highlands, and the employment of the population of these districts; but the part of it which we are more particularly to consider, is that which refers to the proposition of an inland navigation from Loch Beaully and the German Ocean on the Eastern Coast, to Loch Eil and the Atlantic Ocean on the Western Coast."

"The extent of the navigation comprehended in the middle district is about twelve miles. The whole height from the Beaully Firth or the East Sea to Loch Oich, the summit level of the canal, is stated at about 94 feet; and as 53 feet of this has been overcome in rising to Loch Ness, it appears that about 41 feet will form the rise of the lockage of the middle district, while the fall on the western side to Loch Eil is only 90 feet."

APPENDIX, No. XL.

EXTRACTS

FROM

POWNALL'S TOPOGRAPHICAL DESCRIPTION

OF

PART OF THE MIDDLE BRITISH COLONIES IN AMERICA.

“In like Manner the Courses and the Currents of the great Rivers, with their attendant Streams and Rivulets, by the line of their course, and by the Nature of the current with which they flow, mark the *Height of the Land*, the Declination of its sides, and its abrupt Descents or level Plains.”

Appendix.
No. 40.

Extract from Pownall's Topographical Description of Canada.

“When we proceed to a more exact detail of this Country, so as to examine it in its parts, we must observe, that as the Country in General is divided into different Stages, so the general Face of it contained in this map is divided into Two distinct and very different Tracts of Country, viz: Into that Part which lies W. and S. W. of Hudson's River, and that which is E. and N. E. of Hudson's River and Lake Champlain. This specific Difference will be marked in the descriptions which I shall give of each part. It will be sufficient here to say, that the mountains of the Western Division, beginning from an immense high Tract of land lying in the Angle formed by the Mohawks and Hudson's Rivers, go off in an Angle from Hudson's River in one general Trending in parallel and uniform Ranges of Ridges South Westerly to West Florida and Louisiana. The mountains of the other division on the east side of the River run in like uniform Ranges, but in a Direction almost due North and South parallel to the River, and end in steep ridges and bluff Heads at or near the Coast on Long Island Sound: And in the Latitude 45 or thereabouts, *turning Eastward run away to the Gulf of St. Lawrence.*”

Page 9.

“The Hudson's River arises from Two main Sources derived by Two Branches which meet about Ten miles above Albany, the one called the Mohawks' River (rising in a *flat level Tract* of Country, at the very *Top or Height of the Land* to Westward) comes away E. and S. E. at the foot, on the North Sides of the Mountains, which the Indians call by a Name signifying the Endless Mountains.”

Page 10.

“From the junction of these Branches, under the name of Hudson's River, it runs nearly South, and passing what is called the Narrows, between Long Island and Staten Island, runs out to Sea by Sandy Hook; in its course it passes by the City of Albany, and then under the Eastern Foot of the Kaats'-kill Mountains and the Highlands of 'Sopos; but the extraordinary and very singular Passage which it has, is through a Range of very high and mountainous Lands, about 12 miles across, called the Highlands, running directly athwart its course; for as though a Chasm had been split in this Range of Mountains to make way for it, it passes in a deep still channel near a mile

Page 11.

Appendix. broad, with one zigzag only, through these Mountains piled up almost perpendicular
No. 40. to a most astonishing height on each side of it."

Extracts from
Pownall's Topo-
graphical Descrip-
tion of Canada.

Page 13.

"Between the northern Part of the Hudson's River and the Southern Parts of the Lakes and Drowned Land, is the *Height of the Land* of about 12 or 14 Miles Breadth, whence the waters run different ways, Part to the South, Part to the North; over this Portage to Lake George is a Waggon Road

"The Country between the Drowned Lands and Lake George, as the journals of the European Scouts both French and English describe it, also according to the information which the Indians give of it, is a very impracticable Country."

Page 14

"This vale is bordered on the West by a range of the Chicabé Mountains, these terminate a little below East Hadham, and the face of the Country spreads in like manner into hilly Land, (which also form the East Boundary of the vale of Connecticut,) and on the East by one of the ranges of the Ouatchuset Mountain continuing South to Stonington. Going from the same line in *Lat. 45, of the greatest Height of this Range* of Mountains, and following them to the *East northerty*: They all seem to *range as united until again divided by the Bay of Chaleurs*, an arm of the Gulf of St. Lawrence.

"All the Rivers which have their Sources amidst the *Northern Ridges* of this great Range, fall into *Canada or St. Lawrence River*, as the St. Francis, Chaudiere, and many others. All which have their sources amidst the *Southern Ridges*, fall into the *Bay of Fundé* or into the *main Ocean*: their rise are almost universally from Lakes and Ponds, great Part of their first courses lie in the valleys amidst the mountainous Ridges in the forms of drowned Swampy lands, or a succession of Ponds; and while they do so their courses are generally, I might say universally, from *West to East*: Whenever through Gaps or intersections they can get *away Southward*, they do so, tumbling over almost continued Falls across the Ranges. If they happen to find a course along the side of any Spur or Branch which runs South, it is otherwise, and their courses are free. But the other circumstance being that which forms in general their characteristic Nature; these Rivers in general are very little capable of Marine Navigation to any length of Course within the Country; *St. John's River* in Nova Scotia *excepted*.

"Connecticut River. This River rises in North Latitude $45^{\circ} 16'$, at the Height of the Land in Longitude 4, East of the Meridian of Philadelphia. It hath its Birth in a Swampy Cove at the Height of the Land; after having slept for Eight or Ten Miles in this state of Infancy, it leaves the place of its Birth by tumbling over Four separate Falls; it then turns to the West, and keeps close under the Hills which form the northern Boundary of the Vale in which it runs; and in Ten Miles further Course runs under the Little Monadnæg Mountains for about Four miles, at the End it turns round a high Sharp Point, and for about a Mile runs North West, till coming under a high Hill it turns again to the South West; at Two Miles and a Half Distance from hence, a little River called *Leak's Stream* falls into it, coming down a Valley from the North West. This Stream interlocks with some of the Heads of St. Francis's Waters, and has been formerly an Indian Road. From hence, running under the Hills of the Western Boundary of the Vale, it comes in Six or Seven Miles Course to the Grand Monadnæg Mountains on the West; as it runs Eight or Ten Miles further Course, it approaches the Mountains on the East side of the Vale, and runs under rocky Mountains on the East. Almost opposite to this, in a flat Swampy Interval on the West Shore, there is a Mineral Spring. About Eight Miles below this is the beginning of a new Settlement, the First in the Course of this River; about Four Miles lower, opposite to *Amanuseag River*, which falls into it from the East, are two more Settlements."

"The Eastern Range begins by an humble lowly Birth about Hopkington, Holliston, or Medford; the eastern Ridge of this keeps a Course North by Concord, and runs across the River Merrimac at Pantookaëg Falls, it begins to grow more considerable in the Province New Hampshire, and runs up into a high Ridge called Tower Hill; it is depressed again, and again rises into rather a higher Ridge called Saddle-back Mountain: It subsides, but soon again rises in what is called Packer's Hill, it then ranges along the East of Winipissiocket Pond, and at the North East Bay of that runs up into very high Mountains called Ossipee Hills; it continues then the same Northern Course, and in Latitude 44, rises into the highest Mountains of this whole eastern Division called the White Hills, the Peak or Top of which being bare rocks of a White Grit and Talk, and bleached by the eternal Beating of the weather, has a very uncommon appearance: These Hills, although more than 70 Miles within Land, are seen many Leagues off at Sea, and always appear like an exceeding bright cloud in the Horizon. A Ridge of the same range, the next to the Westward, running on the West side Winipissiocket Pond, runs up at the North West Bay into a high Mountain of red shelly Land, and is called the Red Hill or Mountain; this Range falls also in with the White Hills. A Range running hence crosses the East Boundary Line of New-Hampshire in Latitude 44½, and trending North East forms the height of the Land between Kenebaëg and Chaudiere Rivers: *of the Nature and Course of this high Land in these Parts I am totally uninformed*; and the Map in these Parts is so engraved as not to assume any great authority.

"All the Rivers in the eastern Parts of New England, arising amidst the South and South Eastern Ridges of this high Range, generally spring from Lakes, great Ponds, or boggy Swamps in the Vales: While they run or rather creep along the Course of these Vales, their Beds are broad and seem rather like a succession of Ponds than the Channels of Rivers; but as the Southern Ridges are much lower than the Northern ones, these Rivers get away South through the first Gap or Interlocking, or along the first Spur which sets off, and tumble across the several strata in broken currents over rifts and Cataracts almost to their mouths. They are from this circumstance capable of admitting Marine Navigation but a very little way within Land. It is generally stopt at about 20 or 30 Miles by Falls. The Projection of the Rivers in this Part of the Map may be depended upon, being laid down from actual surveys. Of each of these Rivers and of the Coast I shall speak separately.

"All the *Rivers* which arise amidst the *Northern Ridges fall into St. Lawrence River*, the Heads of these Two Sets of Waters interlock with each other, and in the travelling this Country in its natural Wilderness State, which is conducted by means of and along these Waters, very short Portages over Land form the communication."

"Between this high mountainous Traet and the Ocean, both in its northern and in its eastern Range, there is a Piedmont of irregularly broken hilly Land. Of that in the eastern Parts of New England, especially East of Penobscæg, I can say nothing with accuracy, and will therefore say nothing at all. I have strack out of my Map most of the Hills which I found drawn in the Surveys whence I had the Rivers copied, as I suspected they were laid down too much ad libitum. I will not in these parts vouch for even those which remain, except within the line of my Scouting Parties from Penobscot to Kenebaëg, and on the back of the settlements of the Counties of York and Cumberland."

"The River Pasam-Aquâda, or Possam-Accâda, which runs into a Bay so called, is the supposed eastern Boundary of New England; to the East of this begins Aquâda or Nova Scotia; an incertain River St. Croix is the nominal Boundary. But as the French, according to their mode of taking possession, always fixed a cross in every

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Extracts from Pownall's Topographical Description of Canada.

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Appendix. River they came to, almost every River on this Coast of Sagadahoc has in its turn been deemed by them La Riviere de St. Croix. Under Equivocation of this general Appellative they have amused our Negotiators on every occasion.

Extracts from Powell's Topographical Description of Canada.

Page 20

"The source of Pasam-Aquâda River is formed by a succession of Lakes and Swamps running East 42 Miles; it then takes the form of a River and runs East North East eight Miles and an half; then South and by East 12 Miles, then makes a Bend of about 10 Miles Course, running round by South, till it returns to the same Parallel at the distance of five miles and an half East; it turns then to the South, and here are the great Falls where Marine Navigation ends; hence it runs South East six miles, and then South and by East six more to its mouth."

"From the North East Point of Madombédaig the Shore trends North East and by North, about 15 miles to Pasadumkéig (or Pumpking) Point, which forms the West Point of the Mouth of Penôbskéig River, as Peguioit or Cape Razier does the Eastern. The River at this entrance is about point blank shot over."

Page 21

"For Nine Miles above the Falls the River puts on the Appearance of a Lake Two Miles wide, lying North and South, and being full of Islands: The old Penôbsket Indian Town stood at the bottom of this, at the Head of the Falls. Here, and below on the western Banks of the River, were old worn-out clear Fields, extending four or five Miles. Six Miles higher up North, where Passadâmkeig River comes in from the East, is Passadâmkeig Indian Town, to which seite the Penôbskéigs were removed. About Two Miles and an half above this one meets another fork of two Branches, one comes South East about 11 miles from Sebaig Pond, the main one from the North two Miles. East North East six miles higher is Ma-âda-ouamkeig Indian Town, the River comes to this place South East about 16 Miles from some ponds whence it takes its Source."

Page 22

"As the River Kennebaeg has been now rendered famous as a pass, by a March of some spirit and enterprize made by the Americans, following its course, across the land to St. Lawrence or Canada River, I shall here give a more particular and detailed description of it than I should otherwise have entered into.

"This River, in the year 1754 and 1755, was talked of as a Route by which an Army might pass, the best and shortest way to attack Canada and Quebec. The route was supposed to be by an Indian path and carrying-place, which going off from Kennebaeg about eight or ten miles above Noridgewaig, in a North West course of six or seven Miles, came to a pond which issued into the River Chaudiere. Some such information had been given to government; it was of the utmost importance that Government should not be misled. In the year 1756, I had an opportunity of inquiring into this matter by scrutinizing a Journal given to me, and signed by Captain Hobbs and Lieutenant Kennedy, and by examining the journalists themselves as to the authority of the particulars. I found enough to be convinced that this supposed pass was mere conjecture, taken upon trust of Bartholemon an Indian, who was found to be false and a spy, and was in 1755 shot by our own people as he was attempting to desert. Government therefore was early cautioned against this misinformation. When I was Governor of the Province of Massachusetts' Bay, I had this route particularly investigated, by Ensign Howard a Country Surveyor, under the direction of Captain Nicholls who commanded at Fort Frederiek. Instead of a short pass of some eight or ten miles of easy Portage, this Indian path turned out to be a route, on a line as the bird flies, of near 50 miles over land, impracticable to an Army that hath a train of Artillery and heavy baggage. It appeared however that (although a difficult and very laborious route) it was practicable to any body of Men who should go light armed, as a scouting party, either to reconnoitre or to break up settlements. The sort of march

which Arnold and his people experienced, has confirmed this account, given 17 or 18 years ago. After taking possession of the Penobskæg Country, I had all the eastern branches of this river traced to their Sources, and the Communications between them and the waters of Penobskæg scrutinized by constant scouting parties. A general Map which I had plotted down from these routes and journals, together with Surveys of the Rivers, is the authority to this Map in these parts.

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Page 22.

"This River Kenebaëg to begin from its principal Branch, may be described as rising on the Height of the Land in North Latitude $45^{\circ} 20'$, and in east Longitude, from Philadelphia, $5^{\circ} 10'$ or thereabouts; its source is from a little pond, and the first courses of its Birth a succession of Ponds or drowned Lands, Swamps, and Falls. Its first general course is 30 miles South East. it then makes a great Bow whose string (lying East and by South and West and by North) is 12 miles. It then runs North-easterly nine miles and an half, and then tumbling over Falls North East 10 miles, joins the North Branch. The North Branch is said (I speak not here from the same degree of authority) to arise in and issue from a little pond about 16 miles North of this Crotch, from whence (it is likewise said) there is a carrying-place of 13 or 14 miles to an eastern Branch of the Chaudiere River. This was represented to me as the shortest route to Canada, but I do not find in my journals that I have set this down as confirmed or sufficiently authenticated."

"There is a communication between Penobscæg and Kenebek Rivers, with very short portages from Fort Pownall to Fort Hallifax, by a succession of Ponds and by Sebastocoog River. There is a like communication of a still shorter course between the Branches of these Rivers at their Heads. There is likewise a very easy communication between the East Branches of Penobscæg and the Sources of Passamaquada Rivers

Page 24.

"At the Back of York Township is a very high Peak called Agamanticoo, from hence the Ridges of the Hills of these parts range North East under various local Names.

"The Ranges in York and Cumberland Counties trend to the Northward of North East, those in the County of Lincoln, East of Kenebaëg next the Coast do so likewise, but within land they trend more and more to the East of North East. All the Heads of Kenebaëg, Penobskæg, and Passamaquada River are on the Height of the Land running East North East."

"The South Mountain is not in Ridges like the Endless Mountains, but in small, broken, steep, stony Hills; nor does it run with so much regularity. In some places it gradually degenerates to nothing, not to appear again for some miles, and in others spreads several miles in breadth. It runs in more regular Ridges through Virginia under the name of the Blue Ridge Pignut and South Mountain; after it has passed the Maryland, it spreads in more regular Hills, the North Ridges of which trending North for about 13 miles approach near to the Kittatinny Ridge; but resuming again the main course the Hills of this Mountain range along between Yellow Breeches and Conaweggy Creeks to the River Susquehanna opposite to the mouth of Swatara creek, and continue North East, under the names of the Flying and Oley Hills, through Pennsylvania to the Delaware: Its Southern Ridge runs off East North East by Hanover to Susquehanna, where Pequa Creek falls into it, and thence to Trenton. In New Jersey, the Northern Hills narrow and rise again into the form of a Ridge, and it is called Mescapetung; and in New York the Highlands."

Page 27.

"We know from observation how much higher the Atlantic Ocean is than the Pacific, and how it is piled up against the American Coast on the western shore of the gulf of Mexico, driven thither by the Trade Winds and attraction of the Moon and Sun."

Page 30.

APPENDIX, No. XLI.

EXTRACTS

FROM

McKENZIE'S GENERAL HISTORY OF THE FUR TRADE

FROM

CANADA TO THE NORTH-WEST.

From the first volume of his *Voyages through the Continent of North America*, in the years 1789 and 1795
LONDON, 1802.

Appendix. No. 41.

Extracts from Mc-
Kenzie's History
of the Fur Trade.

1st Extract, p. 40.

“The place where the goods alone are carried, is called a *Décharge*, and that where goods and canoes are both transported overland, is denominated a *Portage*.”

2d Extract, p. 28.

“It will not be superfluous in this place to explain the general mode of carrying on the fur trade. . . .

p. 32.

. . . . We shall now proceed to consider the number of men employed in the concern; viz. fifty clerks, seventy-one interpreters and clerks, one thousand one hundred and twenty canoe men, and thirty-five guides. Of these, five clerks, eighteen guides, and three hundred and fifty canoe men were employed for the summer season, in going from Montreal to the Grand Portage in canoes. . . .

p. 35.

. . . . The necessary number of canoes being purchased, . . . they are then dispatched from La Chine, eight miles from Montreal, with eight or ten men in each canoe. . . . Leaving La Chine, they proceed to St. Ann's, within two miles of the Western extremity of the Island of Montreal, the lake of the two mountains being in sight, which may be termed the commencement of the Utawas River.”

3d Extract, p. 42.

. . . . “From whence, including the rapids of Matawoen, where there is no carrying place, it is about thirty-six miles to the forks of the same name, in latitude 46½ North, and longitude 78½ West, and is at the computed distance of four hundred miles from Montreal. At this place the Petite Riviere falls into the Utawas. . . . The Petite Riviere takes a South-West direction, is full of rapids and cataracts to its source, and is not more than fifteen leagues in length, in the course of which are the following interruptions:”

4th Extract, p. 43.

“The last in this River is the Turtle Portage, eighty-three paces, on entering the lake of that name, where indeed the River may be said to take its source. From the first vase to the great river the country has the appearance of having been overrun by fire, and consists in general of huge, rocky hills. The distance of this Portage, which is the height of land between the waters of the St. Lawrence and the Utawas, is one thousand five hundred and thirteen paces to a small canal, in a plain, that is just sufficient to carry the loaded canoe, about one mile to the next vase, which is seven hun-

dred and twenty-five paces. It would be twice this distance, but the narrow creek is dammed in the beaver fashion to float the canoes to this barrier, through which they pass, when the river is just sufficient to bear them through a swamp of two miles to the last vase, of one thousand and twenty-four paces in length. Though the river is increased in this part, some care is necessary to avoid rocks and stumps of trees. In about six miles is the lake Nepisingui, which is computed to be twelve leagues long, though the route of the canoe is something more; it is about fifteen miles wide in the widest part, and bounded with rocks. Its inhabitants consist of the remainder of a numerous converted tribe called Nepisinguis of the Algonquin nation. Out of it flows the Riviere des Francois over rocks of a considerable height."

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No. 41.

Extracts from Mc-
Kenzie's History
of the Fur Trade.
4th Extract, p. 45.

"The distance to Lake Huron is estimated at twenty-five leagues, which this river enters in the latitude 45. 53 North; that is at the point of land three or four miles within the lake. There is hardly a foot of soil to be seen from one end of the French River to the other, its banks consisting of hills of entire rock. The coast of the lake is the same, but lower, backed at some distance by high lands. The course runs through numerous islands to the North of West, to the river Tessalon, computed to be about fifty leagues from the French river, and which I found to be in latitude 46. 12. 21 North, and from thence . . . the route changes to the south of West ten leagues to the Detour. . . . From the Detour to the Island of Michilimackinac, at the confluence of the Lakes Huron and Michigan, in latitude 45. 54 North, is about forty miles. To keep the direct course to Lake Superior, the north shore from the river Tessalon should be followed; crossing to the North-West end of St. Joseph, and passing between it and the adjacent islands, which makes a distance of fifty miles to the fall of St. Mary, at the foot of which, upon the South shore, there is a village, formerly a place of great resort for the inhabitants of Lake Superior, and consequently of considerable trade. . . .

5th Extract, p. 45.

p. 47.

This being therefore the depot for transports, the Montreal canoes on their arrival were forwarded over Lake Superior. . . . At length they all arrive at the Grand Portage, which is one hundred and sixty leagues from St. Mary's coast ways, and situated on a pleasant Bay on the North side of the lake, in latitude 48 North, and longitude 90 West from Greenwich. . . .

p. 49.

p. 52.

This lake may be denominated the grand reservoir of the River St. Lawrence, as no considerable rivers discharge themselves into it. The principal ones are, the St. Louis, the Nipigon, the Pic, and the Michipicoten. Indeed the extent of country from which any of them flow, or take their course in any direction, cannot admit of it, in consequence of the ridge of land that separates them from the rivers that empty themselves into Hudson's-Bay, the gulph of Mexico, and the waters that fall in Lake Michigan, which afterwards become a part of the St. Lawrence."

"I shall now leave these geographical notices to give some further account of the people from Montreal.—When they are arrived at the Grand Portage which is near nine miles over, each of them has to carry eight packages of such goods and provisions as are necessary for the interior country. . . .

6th Extract, p. 50.

The trade from the Grand Portage is in some particulars carried on in a different manner with that from Montreal. The canoes used in the latter transport, are now too large for the former, and some of about half the size are procured from the natives. . . .

p. 58

In these canoes thus loaded, they embark at the north side of the Portage, on the river Au Tourt, which is very inconsiderable. . . .

p. 59.

Over against this is a very high, rocky ridge, on the south side, called Marten Portage, which is but twenty paces long, and separated from the

p. 62.

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Extracts from Mc
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of the Fur Trade.

6th Extract, p. 62.

Pêche Portage, which is four hundred and eighty paces, by a mud-pond covered with white lilies. From hence the course is on the lake of the same name, West-South-West, three miles to the height of land where the waters of the Dove, or Pigeon River terminate, and which is one of the sources of the Great St. Lawrence in this direction. Having carried the canoe and lading over it, six hundred and seventy-nine paces, they embark on the Lake of Hauteur de Terre, which is in the shape of an horse-shoe. It is entered near the curve, and left at the extremity of the western limb, through a very shallow channel, where the canoe passes half loaded, for thirty paces with the current, which conducts these waters through the succeeding lakes and rivers, till they discharge themselves by the River Nelson into Hudson's Bay."

7th Extract, p. 76.

"Lake Winipic is the great reservoir of several large rivers, and discharges itself by the River Nelson into Hudson's Bay. The first in rotation next to that I have just described is the Assiniboin, or Red River, which at the distance of forty miles coastwise, disembogues on the South-West side of the Lake Winipic."

p. 80.

"The next River of magnitude is the River Dauphin, which empties itself at the head of St. Martin's Bay on the West side of the Lake Winipic."

p. 81.

"There is no other considerable River except the Saskatchewan, which I shall mention presently, that empties itself into the Lake Winipic."

"Those on the North side are inconsiderable, owing to the comparative vicinity of the high land, that separates the waters coming this way, from those discharging into Hudson's Bay."

8th Extract, p. 93.

"The interruptions in this distance are frequent, but depend much on the state of the waters. Having passed them, it is necessary to cross the Portage de Traite, or, as it is called by the Indians, Athiquisipichigan Ouinigam, or the Portage of the Stretched Frog-skin, to the Missinipi. The waters already described discharge themselves into Lake Winipic, and augment those of the river Nelson. These which we are now entering, are called the Missinipi, or Great Churchill River."

9th Extract, p. 104.

"The River La Loche which in the fall of the year is very shallow, and navigated with difficulty even by half-laden canoes; its water is not sufficient to form strong rapids, though from its rocky bottom the canoes are frequently in considerable danger. Including its meanders the course of this river may be computed at twenty-four miles, and receives its first waters from the Lake of the same name, which is about twenty miles long and six wide; into which a small river flows, sufficient to bear loaded canoes for about a mile and a half, where the navigation ceases; and the canoes with the lading are carried over the Portage la Loche for thirteen miles. This portage is the ridge that divides the waters which discharge themselves into Hudson's Bay from those that flow into the Northern Ocean, and is in the latitude of 56. 20, and longitude 109. 15 West. It runs South-west until it loses its local height between the Saskatchewan and Elk rivers; close on the bank of the former, in latitude 53. 36 North, and longitude 113. 45 West, it may be traced in an Easterly direction toward latitude 58. 12 North, and longitude 103½ West, when it appears to take its course due North, and may probably reach the Frozen Seas."

APPENDIX, No. XLII.

EXTRACTS

FROM

TRAVELS AND ADVENTURES,

IN

CANADA AND THE INDIAN TERRITORIES,

BETWEEN

THE YEARS 1760 AND 1776.—BY ALEXANDER HENRY, Esq.—NEW YORK, 1809.

Appendix.
No. 42.

Extracts from Henry's Travels in Canada.

Page 27.

“ Here, the river called by the French *Petite Rivière*, and by the Indians *Matawa Sipi*, falls into the *Outaouais*. We now left the latter of these rivers, and proceeded to ascend the *Matawa*. ”

“ Our course in ascending the *Outaouais* had been West-North-West; but on entering the *Matawa*, our faces were turned to the South-West. This latter river is computed to be fourteen leagues in length. In the widest parts it is a hundred yards broad, and in others not more than fifty. In ascending it there are fourteen carrying-places and discharges, of which some are extremely difficult. Its banks are almost two continuous rocks, with scarcely earth enough for the burial of a dead body. I saw Indian graves, if graves they might be called, where the corpse was laid upon the bare rock, and covered with stones. In the side of a hill on the north side of the river there is a curious cave, concerning which marvellous tales are told by the *voyageurs*. Mosquitoes, and a minute species of black fly, abound on this river, the latter of which are still more troublesome than the former. To obtain a respite from their vexations, we were obliged at the carrying places to make fires, and stand in the smoke.

Page 28

“ On the 26th of August, we reached the *Portages à la Vase*, three in number, and each two miles in length. Their name describes the boggy ground of which they consist. In passing one of them we saw many beaver-houses and dams; and by breaking one of the dams, we let off water enough to float our canoes down a small stream, which would not otherwise have been navigable. These carrying places and the intermediate navigation, brought us at length to the head of a small river which falls into Lake *Nipissingue*. We had now passed the country of which the streams fall North-eastward, into the *Outaouais*, and entered that from which they flow in a contrary direction towards Lake *Huron*. On one side of the *height of land*, which is the reciprocal boundary of these regions, we had left Lake *aux Tourtres*, and the River *Matawa*; and before us on the other was Lake *Nipissingue*. ”

“ Pending this enterprise, I had still pursued the Indian trade; and on its failure I applied myself to that employment with more assiduity than ever, and resolved on visiting the countries to the north-west of lake *Superior*. ”

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Extracts from Henry's Travels in Canada.

Page 237.

"In the evening we encamped at the mouth of the Pijitie, a river as large as that of Michipicoten, and which in like manner takes its rise in the high lands lying between Lake Superior and Hudson's Bay. From Michipicoten to the Pijitie, the coast of the Lake is mountainous; the mountains are covered with pine, and the valleys with spruce-fir.

"It was by the River Pijitie,* that the French ascended in 1750, when they plundered one of the factories in Hudson's Bay, and carried off the two small pieces of brass cannon which fell again into the hands of the English at Michilimackinae."

Page 240.

"Next day at the Portage aux Outardes we left the Groseilles, and carrying our canoes and merchandise for three miles over a mountain, came at length to a small lake. This was the beginning of a chain of lakes, extending for fifteen leagues, and separated by carrying places of from half a mile to three miles in length. At the end of this chain we reached the heads of small streams which flow to the north-westward. The region of the lakes is called the *Hauteur de Terre*, or *Land's Height*. It is an elevated tract of country, not inclining in any direction, and diversified on its surface with small hills. The wood is abundant; but consists principally in birch, pine, spruce-fir and a small quantity of maple."

* "According to Carver, it was by the Michipicoten. If he is correct, it must have been from Moose Fort, in James's Bay, and not from Fort Churchill, that they took the cannon."

APPENDIX, No. XLIII.

EXTRACTS

FROM

BOUCHETTE'S TOPOGRAPHICAL DESCRIPTION

OF

THE PROVINCE OF LOWER CANADA,

WITH

REMARKS UPON CANADA, AND THE RELATIVE CONNECTION OF BOTH PROVINCES
WITH THE UNITED STATES OF AMERICA.—LONDON, 1815.

“At the time this Country fell under the English Government, the feudal system universally prevailed in the tenure of lands, and which, as before mentioned, still continues with respect to such as were then granted; but the townships and tracts disposed of by the British Administration have been granted in free and common socage, only two or three instances to the contrary being known.

Appendix.
No. 43.

Extracts from Bouchette's Topographical Description of Canada

Page 10.

“By the ancient custom of Canada, lands were held immediately from the King *en fief*, or *en roture*, on condition of rendering fealty and homage on accession to the seigniorial property; and in the event of a transfer thereof, by sale or otherwise, except in hereditary succession, it was subject to the payment of a *quint*, or the fifth part of the whole purchase money, and which, if paid by the purchaser immediately, entitled him to the *rabat*, or a reduction of two-thirds of the *quint*. This custom still prevails.”

“Beyond this range, at about fifty miles distance, is the ridge, generally denominated the Land's Height, dividing the waters that fall into the St. Lawrence from those taking a direction towards the Atlantic Ocean, and along whose summit is supposed to run the boundary line between the territories of Great Britain and the United States of America. This chain commences upon the Eastern branch of the Connecticut river, takes a north-easterly course, and terminates near Cape Rosier, in the Gulf of St. Lawrence.”

Page 26.

“On the north side of the ridge just described lies the remaining part of Lower Canada yet unnoticed, and which is contained within the Ottawa river, the 51 degree of west longitude, and the 52 parallel of north latitude, intersected laterally by another and higher range of mountains that forms the Land's Height, and divides the waters that empty into the St. Lawrence from those that descend into Hudson's Bay.”

Page 28.

“The river St. Lawrence (which, from its first discovery in 1535, has been called by the inhabitants of the Country, to mark its pre-eminence, the Great River,) re-

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Extracts from Bou-
chette's Topogra-
phical Description
of Canada.

Page 32.

receives nearly all the rivers that have their sources in the extensive range of mountains to the northwards, called the Land's Height, that separates the waters falling into Hud-son's Bay still further to the north, from those that descend into the Atlantic, and all those that rise in the ridge which commences on its southern bank, and runs nearly south-westerly until it falls upon Lake Champlain. Of these, the principal ones are the Ottawa, Masquinonge, Saint Maurice, Saint Anne, Jacques Cartier, Saguenay, Betsiamites, and Manicouagan on the north; and the Salmon river, Chateaugay, Chambly or Richelieu, Yamaska, St. Francis, Becancour, Du Chene, Chaudiere, and du Loup on the South."

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"In the distant range of mountains that form the Land's Height beyond its northern and western shores, several considerable rivers, and numerous small ones, have their rise, which being increased in their course by many small lakes, finally discharge themselves into Lake Superior."

Page 36.

"At the western angle of Lake Huron is Lake Michigan, which, although distinguished by a separate name, can only be considered as a part of the former, deepening into a Bay of two hundred and sixty-two miles in length, by fifty-five in breadth, and whose entire circumference is 731 miles. Between it and Lake Huron there is a peninsula that, at the widest part, is one hundred and fifty miles, along which, and round the bottom of Michigan, runs part of the chain forming the Land's Height to the southward; from whence descend many large and numerous inferior streams that discharge into it. On the north side of Lake Huron many rivers of considerable size run from the Land's Height down to it. One of them, called French river, communicates with Lake Nipissing, from whence a succession of smaller ones, connected by short portages, opens an intercourse with the Ottawa river that joins the St. Lawrence near Montreal."

Page 535.

"**RIVIERE DU LOUP** (the Seigniorly of,) in the county of Cornwallis, fronts the St. Lawrence, joining Granville and Lachenaye on the south-west, and the seigniorly of Isle Verte on the north-east: in the rear it is bounded by waste crown lands. It has nearly five leagues in breadth by two in depth; granted April 5th, 1689, to the Sieurs Villeral and Lachenaye: Alexander Fraser, Esq. is the proprietor. The general appearance of this seigniorly is uneven and mountainous, but it contains some extensive patches of good arable and very fine meadow land; these are divided into several ranges of concessions; bearing the names of St. André Riviere du Loup, St. Patrick Riviere du Loup, Frasersville, Nouvelle Ecosse, St. George, or Caona, St. Anthony, St. Andrew, and St. Jacques: the first, a great part of the second, and a little of the third, are in a very good state of cultivation and well inhabited. The whole seigniorly is abundantly timbered with beech, maple, birch, and large quantities of pine. It is watered by several streams, but the principal one is Riviere du Loup, which rises in the High Lands, and flows in nearly a northerly course into the St. Lawrence; on both sides of it the banks are high, until approaching within about three-quarters of a mile of its discharge, where they become low and flat: vessels of twenty-five tons may ascend it as high as the bridge, a little more than half a mile from its mouth. Fraser Lodge, the residence of the owner of the Seigniorly, is situated on the north side of the entrance of the river."

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"From the Connecticut River, the height of land on which the boundary is supposed to pass runs to the north-east, and divides the waters that fall into the Saint Lawrence from those flowing into the Atlantic; and which height, after running some dis-

tance upon that course, sends off a branch to the eastward, that separates the heads of the streams falling into Lake Timiseouata and river St John, and by that channel into the Bay of Fundy, from those that descend in a more direct course to the Atlantic. The main ridge, continuing its north-easterly direction, is intersected by an imaginary line, prolonged in a course astronomically due north, from the head of the river St. Croix, and which ridge is supposed to be the boundary between Lower Canada and the United States; at least such appears to be the way in which the Treaty of 1783 is construed by the American Government; but which ought, more fairly, to be understood as follows, viz: That the astronomical line running north from the St. Croix should extend only to the first or easterly ridge, and thence run westerly, along the crest of the said ridge, to the Connecticut; thereby equitably dividing the waters flowing into the St. Lawrence from those that empty into the Atlantic *within the limits of the United States*, and those that have their estuaries within the British province of New Brunswick. It is important, and must always have been had in contemplation, that an uninterrupted communication and connection should exist between all his Majesty's North American possessions; but by the manner in which the treaty is insisted upon by the opposite party, a space of more than eighty-five miles would be placed within the American limits, and by which the British provinces would be completely severed; it would also produce the inconvenience of having the mail from England to Quebec carried over that distance of American Territory; and which may either be deemed a matter of indulgence, or complained of as an encroachment, according to the temper of the times. Within this tract also is the Madawaska Settlement, consisting of nearly 200 families, all holding their grants from the British Government. England, at all times high minded and generous, never shrinks from the strict fulfilment of her engagements; even though from oversight, or want of political acuteness in the persons employed, they may have been framed in a way prejudicial to her true interests. But at the same time she has a right to require that the interpretation of them should not be overstrained or twisted from their obvious meaning and intent by a grasping cupidity after a few miles of territory: which if acquired could be but of little available advantage to the other party. To her, however, this tract is of more value, as securing a free access to all the British provinces, without being obliged to the forbearance of any neighboring State for that enjoyment. If, in the final fulfilment of the fourth and fifth articles of the Treaty of 1815, it should be awarded that the claim of the American Government to have the boundary pass along the north-easterly ridge of land is just, and ought to be acceded to, it is very desirable, and even important to his Majesty's Colonies, that one of the instructions to the British Negotiator should be, to obtain the cession of this tract of Country, either by exchange or other equivalent means, in order that the communication from Nova Scotia and New Brunswick with Lower Canada may be henceforth secured from the chance of interruption."

Appendix.
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Extracts from Bou-
chette's Topogra-
phical Description
of Canada
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"FOUCAULT (the Seigniori of) in the County of Bedford, is bounded on the north by the Seigniori of Noyan, on the south by the State of Vermont, on the east by Missiqui Bay, and on the west by the Richelieu; it was granted, May 1st. 1743, to Sieur Foucault; two leagues in front by two and a half in depth, and is now possessed by General Burton. The line of boundary between Lower Canada and the United States runs through this Seigniori, whereby a great part of it is placed within the State of Vermont."

"DIVISIONS OF LOWER CANADA.

"The Province of Lower Canada is divided into the Districts of Montreal, Three Rivers, Quebec, and Gaspé, which, by proclamation of the Government, dated May 7,

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Extracts from Bon-
chette's Topogra-
phical Description
of Canada.
Page 86.

1792, were subdivided into the following twenty-one Counties, viz: Bedford, Buckingham, Cornwallis, Devon, Dorchester, Effingham, Gaspé, Hampshire, Hertford, Huntingdon, Kent, Leinster, Montreal, St. Maurice, Northumberland, Orleans, Quebec, Richelieu, Surrey, Warwick, and York. The minor divisions are, 1st. The Seigniories, or the original grants of the French Government under the feudal system; these are again partitioned out into parishes, whose extents were exactly defined by a regulation made in September, 1721, by Messrs. De Vaudreuil and Bigon, assisted by the Bishop of Quebec, and confirmed by an 'Arret du Conseil Superieur,' of the 3d of May, 1722."

"THE DISTRICT OF THREE RIVERS

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"Lies between those of Montreal and Quebec, is bounded on the south by part of the line of 45 degrees of north latitude, and the ridge of mountains stretching to the north-east; northward its limit is indefinite; or it may be presumed to have only the province boundary for its limit in that direction."

"THE DISTRICT OF QUEBEC

Page 371.

"Extends from the Seigniorie of Grondines, whose western boundary joins the District of Three Rivers, down the St. Lawrence on the north side as far as the River St. John, on the Coast of Labrador; and on the south side from the Seigniorie of Deschailons as far down as Cape Chat, where it is met by the District of Gaspé; to the southward it is bounded by the ridge of mountains already designated as the north-easterly chain, and on the northward by the 52d degree of north latitude. It contains the Counties of Cornwallis, Devon, Hertford, Dorchester, Hampshire, Quebec, Orleans, and Northumberland; eighty-seven Seigniories, fourteen whole Townships, four that are partly within the District of Three Rivers, eighteen projected Townships, and forty-two parishes. The quantity of land granted in *fief et seigneurie* amounts to 4,352,500 acres, or 5,109,319 French arpents: in free and common soccage, 561,234 acres. Of the old tenures, one third part, or perhaps a little less, is under cultivation: in the Townships the proportion under tillage is yet but small."

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"DESMAURE, or ST. AUGUSTIN (the Seigniorie of,) in the County of Hants, fronting the St. Lawrence, is bounded on the north-east by Gaudarville; on the south-west by Pointe aux Trembles, and in the rear by Guillaume Bonhomme and Faussenbault. No official record has been found relative to this grant; consequently its original date and precise dimensions are not known. *Les Dames Religieuses* of the General Hospital of Quebec, to whom the property belongs, in performing fealty and homage on the 19th March, 1781, produced as their title an act of adjudication, dated September 22, 1733; but which was still indecisive of its dimensions, no notice whatever being taken of the extent."

APPENDIX.

Extrait des Titres de Concessions de Terres octroyées en Fiefs dans la Province du Bas-Canada.

| | |
|---|---------------------------------|
| ANCE DE L'ETANG. | CONTRECEUR. |
| ANTAYA. | COTE DE BEAUPRE. |
| ARGENTEUIL. | COURNOYER. |
| AUBERT GALLION. | COURNOYER. |
| BAIE ST. ANTOINE OU LEFEBVRE. | COURVAL. |
| BATISCAN. | DERRIERE LA CONCESSION DU SIEUR |
| VILLECHAUVÉ OU BEAUHARNOIS. | NEVEU AU SUD-OUEST. |
| BEAUPORT. | PARTIE EST DE DAUTRE. |
| BEAUJEU OU LACOLLE. | PARTIE OUEST DE DAUTRE. |
| BEAUMONT. | D'AUTEUIL. |
| AUGMENTATION DE BEAUMONT. | DEGUIR. |
| BECANCOUR. | DE LERY. |
| BELAIR OU LES ECUREUILS. | DE L'ISLE. |
| AUGMENTATION DES ECUREUILS. | DERRIERE DAUTRE ET LANAURAIE. |
| BELCÉIL. | DERRIERE LA CONCESSION DU SIEUR |
| AUGMENTATION A BELCÉIL. | NEVEU, AU NORD-EST. |
| BELLEVUE. | DESMASURE OU ST. AUGUSTIN. |
| BERTHIER. | DE PEIRAS. |
| BERTHIER. | DE RANZAY. |
| <i>Derrière Antaya, Randin, Berthier</i> | DES CHAMBAULT. |
| <i>et Chicot. AUGMENTATION DE BERTHIER.</i> | PARTIE NORD-EST DE DESPLAINES. |
| LE BIC. | PARTIE SUD-OUEST DE DESPLAINES. |
| BLEURY. | DU MONTIER. |
| BONAVANTURE. | DU SABLE. |
| GUILLAUME BONHOMME. | DUTORT. |
| BONSECOURS. | LES EBOULEMENS. |
| BONSECOURS. | BELAIR OU LES ECUREUILS. |
| BONSECOURS. | AUGMENTATION DES ECUREUILS. |
| BOURCHEMIN. | L'ÉPINAY. |
| BOUCHERVILLE. | FAUSEMBAULT. |
| BOURGLouis. | FOUCAULT. |
| BOURG MARIE, DE L'EST. | FOURNIER. |
| BOURG MARIE DE L'OUEST. | GASPE. |
| CAP DE LA MAGDELAINE. | GATINEAU. |
| CAP ST. MICHEL OU LA TRINITE. | AUGMENTATION A GATINEAU. |
| CARUFEL. | GAUDARVILLE. |
| CHAMPLAIN. | GENTILLY. |
| AUGMENTATION DE CHAMPLAIN. | GODEFROL. |
| CHAMBLY. | LE GOUFFRE. |
| CHATEAUGAY. | GRAND PABOS. |
| CHICOT. | GRANDPRE. |
| CLORIDON. | GRANDE RIVIERE. |
| | GRANDVILLE. |

Appendix. GRANDVILLE ET LACHENAIE.

No. 43.

Extracts from Pou-
chette's Topogra-
pical Description
of Canada.

GRANDE VALLEE DES MONTS.

PARTIE OUEST DES GRONDINES.

PARTIE EST DES GRONDINES.

AUGMENTATION A LA PARTIE EST DE
GRONDINES.

GUILLAUDIERE.

HUBERT.

ISLET ST. JEAN.

ISLET DU PORTAGE.

ISLE VERTE.

ISLE PERROT, AUDESSUS DE MON-
TREAL.

ISLE BIZARD, AUDESSUS MONTREAL.

ISLE ST. PAUL, AUDESSUS DE MON-
TREAL.

ISLE DE MONTREAL.

ISLE JESUS.

ISLE BOUCHARD VIS-A-VIS BOUCHER-
VILLE.ISLE ST. THERESE, AU BOUT D'ENBAS
DE L'ISLE DE MONTREAL.

ISLE BOURDON.

ISLES BEAUREGARD.

ISLES ET ISLETS DANS LE LAC ST.
PIERRE.ISLE MORAN, A L'EMBOUCHURE DE LA
RIVIERE NICOLET.

ISLE DU LARGE.

ISLE D'ORLEANS.

ISLE AUX REAUX.

ISLE STE. MARGUERITE.

ISLE AUX COUDRES.

ISLE D'ANTICOSTI.

ISLES ET ISLETS DE MINGAN.

JACQUES CARTIER.

JOLLIET.

KAMOURASKA.

LABADIE.

LAC DES DEUX MONTAGNES.

AUTRE AUGMENTATION AU LAC DES
DEUX MONTAGNES.

LA CHENAYE.

CHEVROTIERE.

LAC MATAPEDIACH.

LAC MITIS.

LA DURANTAIE.

AUGMENTATION DE LA DURANTAIE.

LA FRESNAY.

LA MARTINIERE.

LANAUDIERE.

LA NORAYE.

LA PRAIRIE DE LA MAGDELAINE.

LA SALLE.

LA TESSERIE.

LA VALTRIE.

AUGMENTATION A LAVALTRIE.

LAUZON.

LESSARD.

LESSARD.

LEVRARD OU ST. PIERRE LES BEC-
QUETS.

LIVAUDIERE.

BARONIE DE LONGUEIL.

LOTBINIERE, PREMIERE PARTIE.

LOTBINIERE, SECONDE PARTIE.

LOTBINIERE, TROISIEME PARTIE.

LOTBINIERE, QUATRIEME PARTIE, OU
AUGMENTATION.

LOUIS GAGNIER, DIT BELLEAVANCE.

LOUIS LE PAGE ET GABRIEL TI-
BERGE.AUGMENTATION A LA CONCESSION
PRECEDENTE.

LUSSAUDIERE.

LUSSON.

GROSBOIS OU MACHICHE.

MAGDELAINE.

FIEF MARANDA, PARTIE NORD-EST.

FIEF MARANDA PARTIE SUD-OUEST.

PARTIE NORD-EST DE MASQUINONGE.

PARTIE SUD-OUEST DE MASQUINONGE.

MATANE.

MILLE-ISLES.

AUGMENTATION DES MILLE-ISLES.

MILLE VACHES.

TERRA FIRMA DE MINGAN.

MONNOIR.

AUGMENTATION A MONNOIR.

MONT-A-PEINE.

AUGMENTATION DE MONT-A-PEINE.

MONTARVILLE.

MOUNT MURRAY.

MURRAY-BAY OR MALBAY.

NEUVILLE OU LA POINTE AUX TREM-
BLES.

DERRIERE DAUTRE ET LA NORAYE.

NICOLET.

L'ISLE DE LA FOURCHE, ET AUG-
MENTATION A NICOLET.

NOTRE DAME DES ANGES.

NOUVELLE LONGUEIL.

NOYAN.

D'ORSAINVILLE.

PACHOT.

PASPERIAC.

PERTHUIS.

PETITE NATION.

PIERREVILLE.

TONNANCOUR OU POINTE DU LAC.

PORT DANIEL.

BARRONIE DE PORTNEUF.
 DERRIERE LA CONCESSION DU SIEUR
 NEVEU, AU NORD-EST.
 RANDIN.
 AUGMENTATION DE RANDIN.
 REAUME.
 RIGAUD.
 RIMOUSKY.
 RIVIERE DU LOUP, AVEC AUGMENTA-
 TION.
 RIVIERE DU LOUP ET L'ISLE VERTE.
 RIVIERE DU SUD, AVEC LES ISLES
 AUX GRUES ET AUX OIES.
 LA RIVIERE OUELLE.
 AUGMENTATION DE LA RIVIERE
 OUELLE.
 ROQUETAILLADE.
 ROUVILLE.
 SABREVOIS.
 SAINTE ANNE.
 AUGMENTATION DE STE. ANNE.
 AUTRE AUGMENTATION DE STE.
 ANNE.
 TROISIEME AUGMENTATION DE STE.
 ANNE.
 STE. ANNE.
 STE. ANNE OU LA POCADIERE.
 TILLY OU ST. ANTOINE.
 ST. ARMAND.
 ST. BARNABE.
 ST. BLAIN.
 ST. CHARLES.
 ST. CHARLES.
 STE. CLAIRE.
 STE. CROIX.
 ST. DENIS.
 ST. DENIS.
 ST. ETIENNE.
 ST. FRANÇOIS.
 ST. GABRIEL.
 ST. HYACINTHE.
 FIEF ST. IGNACE.
 FIEF ST. JEAN.

AUGMENTATION DE FIEF ST. JEAN. *Appendix.*
 ST. JEAN DESCHAILLONS. *No. 43.*
 AUGMENTATION DE ST. JEAN DES-
 CHAILLONS. Extracts from Bou-
 chette's Topogra-
 phical Description
 of Canada
 ST. JEAN PORT JOLI.
 ST. JOSEPH.
 ST. JOSEPH OU L'EPINAY.
 STE. MARGUERITE.
 STE. MARIE.
 SAINTE MARIE.
 SAINT MAURICE.
 ST. GERVAIS AJOUTE AUX SEIGNEU-
 RIES DE ST. MICHEL ET DE LIVAU-
 DIERE.
 ST. OURS.
 ST. PAUL.
 ST. ROC.
 SAINT SULPICE.
 SAULT ST. LOUIS.
 SHOOLBRED.
 SILLERY.
 SOREL.
 DERRIERE SOREL.
 SOULANGE.
 TERREBOIS OU DEVERBOIS.
 TERREBONNE.
 AUGMENTATION DE TERREBONNE.
 AUTRE AUGMENTATION DE TERRE-
 BONNE.
 TREMBLAY ET VARENNES.
 TROIS PISTOLES.
 PARTIE DES TROIS PISTOLES.
 TROIS-RIVIERES.
 VAUDREUIL.
 VAUDREUIL.
 VERCHERES AVEC AUGMENTATION.
 VIEUPONT.
 VILLERAY OU DARTIGNY.
 VINCELOT.
 AUGMENTATION DE VINCELOT.
 VINCENNES.
 YAMASKA.

Appendix.
No. 43.

Extracts from Bon-
chette's Topogra-
phical Description
of Canada.

GENERAL STATEMENT of the Lands granted in free and common Socage in the Province of Lower Canada, within the unmentioned Townships, which have been laid out and subdivided since the year 1793, shewing also the proportional Reservations for Crown and Clergy.

| NO. OF GRANTS. | TOWNSHIPS. | BY WHOM GRANTED. | LEADERS OF TOWNSHIPS. | DATE OF THE PATENT. | NO. OF ACRES GRANTED. | RESERVATIONS FOR THE CROWN. | RESERVATIONS FOR THE CLERGY. |
|----------------|-------------|------------------|---------------------------------|---------------------|-----------------------|-----------------------------|------------------------------|
| 1 | Dunham | Lord Dorchester | Thomas Dunn, Esq. | Feb. 2, 1796 | 40,895 | 8,100 | 8,100 |
| 2 | Brome | General Prescott | Asa Porter, Esq. | Aug. 18, 1797 | 46,200 | 9,030 | 9,030 |
| 3 | Bolton | Do. | Nicholas Austin | Do. | 62,621 | 12,190 | 12,400 |
| 4 | Potton | Do. | Lauchlan McLean | October 31 | 6,000 | 1,260 | 1,260 |
| 5 | Farnham | Do. | Samuel Gale, &c. | Oct. 22, 1798 | 23,000 | 4,830 | 4,830 |
| 6 | Hindinbrook | Do. | Gilbert Miller | Jan. 3, 1799 | 5,200 | 1,040 | 1,040 |
| 7 | Hemmingford | Do. | Robert Gordon | March 18 | 20,800 | 4,160 | 4,160 |
| 8 | Clifton | Do. | David Stevard | June 13 | 12,600 | 2,520 | 2,520 |
| 9 | Armagh | Do. | Thompson and Blais | July 13 | 2,400 | 410 | 630 |
| 10 | Rawdon | Do. | James Sawyer | Do. | 1,900 | 400 | 400 |
| 11 | Chatham | Do. | P. L. Panet and William Fortune | Do. | 2,200 | 410 | 410 |
| 12 | Buckingham | Do. | Captain Robertson | November 27 | 2,000 | 420 | 420 |
| 13 | Dorset | Do. | John Black | December 30 | 53,000 | 10,710 | 10,710 |
| 14 | Hunterstown | Do. | John Jones | April 29, 1800 | 24,620 | 4,600 | 4,600 |
| 15 | Stoneham | Do. | Kentelm Chandler | May 14 | 21,000 | 3,428 | 3,428 |
| 16 | Tewkesbury | Do. | Captain Wulf | September 18 | 2,000 | 400 | 400 |
| 17 | Stanbridge | Do. | Hugh Finlay, Esq. | September 1 | 41,790 | 8,820 | 8,610 |
| 18 | Grantham | Do. | William Grant | May 14 | 27,000 | 5,250 | 5,250 |
| 19 | Upton | Do. | David Alexander Grant | May 21 | 25,200 | 5,210 | 5,000 |
| 20 | Tewkesbury | Do. | Denis Lefourneau | May 11 | 24,000 | 4,610 | 4,620 |
| 21 | Stanstead | Do. | Isaac Ouden | September 27 | 27,720 | 5,250 | 5,010 |
| 22 | Broughton | Do. | H. Jenkin and William Hall | October 20 | 23,100 | 5,119 | 5,340 |
| 23 | Stukely | Do. | Samuel Willard | November 3 | 23,625 | 4,200 | 4,650 |
| 24 | Hereford | Do. | James Rankin | November 6 | 23,100 | 4,620 | 4,410 |
| 25 | Eaton | Do. | Josia Sawyer | December 4 | 25,620 | 5,250 | 4,620 |
| 26 | Shefford | Do. | John Savage | Feb. 10, 1801 | 35,490 | 7,098 | 7,098 |
| 27 | Burnston | Do. | Lester and Morrough | April 11 | 23,100 | 4,735 | 4,693 |
| 28 | Orford | Do. | Luke Knoutton | May 5 | 14,280 | 2,899 | 2,487 |

| | | | | | | | |
|----|-------------|-----|--|---------------|--------|--------|--------|
| 29 | Newport | Do. | Edmund Heard | July 4 | 11,550 | 2,310 | 2,310 |
| 30 | Stoke | Do. | James Cowan | Feb. 13, 1802 | 43,620 | 10,512 | 8,912 |
| 31 | Barford | Do. | J. W. Clarke, Esq. | April 15 | 27,720 | 5,880 | 5,670 |
| 32 | Windsor | Do. | Officers and Privates Canadian Militia | July 14 | 50,900 | 10,611 | 10,665 |
| 33 | Chester | Do. | Simon McTavish, Esq. | July 17 | 11,550 | 2,310 | 2,310 |
| 34 | Simpson | Do. | Officers and Privates Canadian Militia | Do. | 42,135 | 9,326 | 8,387 |
| 35 | Halifax | Do. | Benjamin Jobert | August 7 | 11,550 | 2,310 | 2,310 |
| 36 | Inverness | Do. | William M. Gillivray | August 9 | 11,550 | 2,310 | 2,310 |
| 37 | Wolfstown | Do. | Nicholas Montour | August 14 | 11,550 | 2,310 | 2,310 |
| 38 | Leeds | Do. | Isaac Todd | Do. | 11,760 | 2,420 | 2,630 |
| 39 | Stoke | Do. | Minor Children of William Boutellier | August 28 | 1,890 | 378 | 378 |
| 40 | Ireland | Do. | Joseph Frohisher | August 20 | 11,550 | 2,310 | 2,310 |
| 41 | Durham | Do. | Thomas Scott | August 30 | 21,991 | 4,410 | 4,410 |
| 42 | Sutton | Do. | Sundry persons | August 31 | 39,900 | 8,400 | 7,800 |
| 43 | Corpton | Do. | Jesse Pennoyer | Do. | 26,160 | 5,250 | 5,250 |
| 44 | Wickham | Do. | William Lindsay | Do. | 23,753 | 5,361 | 4,489 |
| 45 | Arthabaska | Do. | John Gregory | September 30 | 11,550 | 2,730 | 2,100 |
| 46 | Thetford | Do. | John Mervin Nouth | November 10 | 23,100 | 4,620 | 4,410 |
| 47 | Ely | Do. | Amos Lay, Jun. | November 13 | 11,550 | 2,310 | 2,310 |
| 48 | Roxton | Do. | Sundry persons | Jan. 8, 1803 | 24,784 | 4,620 | 4,620 |
| 49 | Isworth | Do. | Mathew O'Mara | Nov. 22, 1802 | 1,260 | 210 | 420 |
| 50 | Buckingham | Do. | Fortune and Hawley | Jan. 22, 1803 | 14,910 | 3,570 | 3,360 |
| 51 | Granby | Do. | Officers and Privates British Militia | Jan. 8, 1803 | 58,152 | 7,908 | 7,977 |
| 52 | Milton | Do. | Ditto | January 29 | 24,518 | 6,090 | 6,273 |
| 53 | Clifton | Do. | Sundry persons | March 5 | 23,516 | 4,914 | 5,064 |
| 54 | Bury | Do. | Calvin May | March 15 | 11,550 | 2,310 | 2,310 |
| 55 | Hatley | Do. | Henry Cull | March 25 | 23,493 | 4,890 | 4,910 |
| 56 | Ascot | Do. | Gilbert yatt | April 21 | 20,188 | 4,200 | 4,200 |
| 57 | Diton | Do. | M. H. Yeomans | May 13 | 11,550 | 2,310 | 2,310 |
| 58 | Clinton | Do. | J. F. Holland | May 24 | 11,550 | 2,510 | 2,100 |
| 59 | Bulstrode | Do. | Patrick Langan | May 27 | 24,463 | 4,891 | 4,891 |
| 60 | Kingsey | Do. | George Longmore | June 7 | 11,478 | 2,418 | 2,422 |
| 61 | Hemmingford | Do. | Sundry persons | June 17 | 8,536 | 1,707 | 1,707 |
| 62 | Kildare | Do. | P. M. De-La Valtrie | June 24 | 11,486 | 1,990 | 2,520 |
| 63 | Clifton | Do. | Mary Barnett | July 23 | 7,035 | 1,594 | 1,680 |

Appendix.
No. 43.

Extracts from
Bouchette's Topo-
graphic Description
of Canada

GENERAL STATEMENT—Continued.

| NO. OF GRANTS. | TOWNSHIPS. | BY WHOM GRANTED. | LEADERS OF TOWNSHIPS. | DATE OF THE PATENT. | NO. OF ACRES GRANTED. | RESERVATIONS FOR THE CROWN. | RESERVATIONS FOR THE CLERGY. |
|----------------|-------------|------------------------|---|---------------------|-----------------------|-----------------------------|------------------------------|
| 64 | Potton | Sir R. S. Milnes | Henry Ruiter | July 27, 1803 | 27,580 | 5,516 | 5,516 |
| 65 | Newport | Do. | N. Taylor | August 4 | 12,600 | 2,400 | 2,400 |
| 66 | Brompton | Do. | William Barnard | November 27 | 40,753 | 7,800 | 8,000 |
| 67 | Shipton | Do. | Elmer Cushing | December 4 | 58,692 | 11,725 | 11,739 |
| 68 | Stanstead | Do. | Richard Adams | December 6 | 1,276 | 210 | 173 |
| 69 | Tingwick | Do. | Sundry persons | Jan. 23, 1804 | 23,730 | 5,040 | 4,620 |
| 70 | Warwick | Do. | Ditto | Do. | 23,940 | 4,830 | 4,830 |
| 71 | Eaton | Do. | Isaac Ogden | March 1 | 6,300 | 1,680 | 1,890 |
| 72 | Westbury | Do. | Henry Caldwell | March 13 | 12,262 | 2,701 | 2,462 |
| 73 | Hemmingford | Do. | Daniel McNaught | March 27 | 420 | 84 | 84 |
| 74 | Nelson | Do. | Officers and Privates of Canadian Militia | April 21 | 38,326 | 7,561 | 7,743 |
| 75 | Somerset | Do. | Ditto | Do. | 38,790 | 7,483 | 7,619 |
| 76 | Windsor | Do. | Mary Charlotte de Castelle | May 17 | 420 | 84 | 84 |
| 77 | Tring | Do. | Sundry persons | July 20 | 22,995 | 4,400 | 4,400 |
| 78 | Hemmingford | Do. | Mathew Scott | December 24 | 2,520 | 504 | 504 |
| 79 | Barnston | Do. | Sundry persons | Jan. 7, 1805 | 2,310 | 152 | 152 |
| 80 | Rawdon | Do. | R. Henry Bruere and Selby | January 14 | 3,150 | 630 | 420 |
| 81 | Kingsey | Do. | Major Holland's family, &c. | January 28 | 11,198 | 2,132 | 1,998 |
| 82 | Hatley | Do. | Moses Holt's family | February 21 | 2,304 | 374 | 381 |
| 83 | Newton | Do. | C. De Lotbiniere | March 6 | 12,961 | 2,331 | 2,526 |
| 84 | Onslow | Do. | Forsyth and Richardson | March 9 | 1,073 | 210 | 210 |
| 85 | Melborne | Do. | Henry Caldwell | April 3 | 26,153 | 5,932 | 6,181 |
| 86 | Chester | Do. | Sundry persons | April 11 | 11,707 | 2,320 | 2,320 |
| 87 | Dudswell | Do. | John Bishop | May 13 | 11,632 | 2,217 | 2,483 |
| 88 | Wendover | Do. | Sundry persons | June 24 | 12,558 | 2,739 | 2,266 |
| 89 | Halifax | Do. | Mathew Scott | June 25 | 11,243 | 2,310 | 2,590 |
| 90 | Durham | Do. | St. François Indians | June 26 | 8,150 | 1,620 | 1,365 |
| 91 | Stanstead | Do. | Sundry persons | August 2 | 3,578 | 511 | 511 |
| 92 | Farnham | Hon. J. Dun, President | Jane Cuyler, &c. | September 9 | 5,040 | 600 | 892 |

Extracts from Bou-
chette's Topog-
raphical Description
of Canada.

| | | | | | | | |
|-----|---------------------------------------|---|---|----------------|---------|-------|-------|
| 93 | Hull | Do. | Philemon Wright | Jan. 3, 1806 | 13,701 | 2,482 | 2,243 |
| 94 | Aston | Do. | Sundry persons | February 17 | 27,127 | 5,451 | 4,847 |
| 95 | Aukland | Do. | Foleury Deschambault and others | April 3 | 23,100 | 4,400 | 4,400 |
| 96 | Aston | Do. | John Nelson | June 27 | 1,160 | | |
| 97 | Frampton | Do. | P. E. Desbarat, &c. &c. | July 10 | 11,569 | 2,212 | 2,200 |
| 98 | Granby | Do. | Ju. Margaret and Isabella Simpson | July 3 | 420 | | |
| 99 | Acton | Do. | Gother Man, &c. &c. | July 22 | 22,859 | 4,800 | 4,812 |
| 100 | Eardley | Do. | Sundry persons | August 22 | 5,250 | 1,390 | 1,275 |
| 101 | Buckland | Do. | Ditto | November 26 | 12,182 | 2,433 | 2,367 |
| 102 | Chatham | Do. | Col. Daniel Robertson and Dr. S. Fraser | December 31 | 5,250 | 800 | 800 |
| 103 | Lingwick | Do. | Sundry grantees | March 7, 1807 | 13,650 | 2,600 | 2,400 |
| 104 | Lochaber | Do. | Archibald McMillan, &c. | March 26 | 13,261 | 3,213 | 3,201 |
| 105 | Templeton | Do. | Ditto | Do. | 8,949 | 2,052 | 1,829 |
| 106 | Grenville | His Excellency Sir J. H. Craig, K. B. Governor General, &c. | Ditto | Jan. 28, 1808 | 1,260 | 211 | 400 |
| 107 | Ham | Do. | Partial grant | February 6 | 1,260 | 200 | 200 |
| 108 | Stanfold | Do. | Jenkin Williams, &c. | July 8, 1807 | 26,810 | | |
| 109 | Maddington | Do. | G. W. Allsopp | Dec. 24, 1808 | 6,005 | | |
| 110 | Ditto | Do. | Sundry persons | December 1 | 6,033 | | |
| 111 | Acton | Do. | George Waters Allsopp | July 22, 1806 | 24,004 | | |
| 112 | Granby, Milton and Simpson | Do. | Sundry persons | July 29 | 2,520 | | |
| 113 | Hull | Do. | Robert Randall | Sept. 21, 1807 | 630 | | |
| 114 | Frampton | Sir J. H. Craig | Sundry grantees | Sept. 9, 1808 | 12,380 | | |
| 115 | Wendover | Do. | Benjamin and Alexander Hart | September 26 | 200 | | |
| 116 | Onslow | Do. | Roswell Minor, &c. &c. | November 12 | 12,667½ | | |
| 117 | Windsor, Simpson, Somerset and Nelson | Do. | Sundry persons | December 27 | 3,780 | | |
| 118 | Farnham | Do. | John Allsopp, &c. &c. | Feb. 11, 1809 | 10,176 | | |
| 119 | Sherrington | Do. | Francis Bady and others | February 22 | 19,278 | | |
| 120 | Upton | Do. | Lewis Schmidt and family | May 27 | 678 | | |
| 121 | Sherrington | Do. | Susan and Margaret Finlay | May 29 | 8,395 | | |
| 122 | Wentworth | Do. | Jane de Montmoulin, &c. | June 3 | 12,390 | | |

Appendix.
No. 43.

Extracts from Bouchette's Topographical Description of Canada.

GENERAL STATEMENT—Continued.

| NO. OF GRANTS. | TOWNSHIPS. | BY WHOM GRANTED. | LEADERS OF TOWNSHIPS. | DATE OF THE PATENT. | NO. OF ACRES GRANTED. | RESERVATIONS FOR THE CROWN. | RESERVATIONS FOR THE CURETY. |
|----------------|---------------|--------------------|----------------------------------|---------------------|-----------------------|-----------------------------|------------------------------|
| 123 | Templeton | Sir J. H. Craig | Sundry grantees | Nov. 29, 1809 | 8,620 | 58,512 | 58,512 |
| 124 | Stanstead | Do. | Sir R. S. Milnes | March 12, 1810 | 21,406 | | |
| 125 | Compton | Do. | Ditto | Do. | 13,110 | | |
| 126 | Barriston | Do. | Ditto | Do. | 13,546 | | |
| 127 | Shenly | Do. | James Glenny | May 1 | 10,298 | | |
| 128 | Shipton | Do. | James Barnard | July 10 | 210 | | |
| 129 | Potton | Do. | Thomas Shephard | July 18 | 210 | | |
| 130 | Granville | Do. | Archibald Campbell | December 12 | 616 | | |
| 131 | Ely | Do. | Doeas Higgins | Jan. 21, 1811 | 630 | | |
| 132 | Newton | Do. | Savense de Beaujeu, &c. | April 25 | 1,137 | | |
| 133 | Godmanchester | Do. | Robert Ellice, &c. &c. | May 10 | 25,592 | | |
| 134 | Baraston | Do. | William Somerville | June 18 | 3,200 | | |
| 135 | Inverness | Do. | Robert Skinner | Do. | 600 | | |
| 136 | Kingsey | Do. | Edward Baynes | Do. | 600 | | |
| 137 | Hemmingford | Thomas Dunn, Gent. | Stephen Sewell | September 18 | 3,200 | | |
| 138 | Hinchinbrook | Sir George Prevost | Lieut. Col. R. Ellis, &c. | December 30 | 3,719 | | |
| 139 | Ham | Do. | Martha Mitchell | December 31 | 1,500 | | |
| 140 | Clatham | Do. | Sundry persons | Jan. 10, 1812 | 13,319 | | |
| 141 | Leeds | Do. | George Hamilton | December 7 | 8,002 | | |
| 142 | Faton | Do. | Joseph Cummings | December 17 | 200 | | |
| 143 | Sherrington | Do. | Hon. J. Young | December 30 | | | |
| 144 | Godmanchester | Do. | John McKindlay and others | Jan. 4, 1814 | | | |
| 145 | Kingsey | Do. | Donald McLean and family | January 11 | | | |
| 146 | Durlam | Do. | Ditto | Do. | | | |
| 147 | Leeds | Do. | John Palmer and Richard Sheppard | March 3 | | | |
| 148 | Hemmingford | Do. | John Graves and others | March 16 | | | |
| 149 | Lingwick | Do. | Hon. John Young | March 21 | 17,000 | | |
| 150 | Ascot | Do. | James Bangs | March 26 | 200 | | |
| | | | Total | Total | 2,203,709½ | 145,660 | 439,705 |

APPENDIX, No. XLIV.

EXTRACT

FROM

THE JOURNAL OF THE GENERAL ASSEMBLY OF NEW YORK,

CONTAINING

THE REPORT OF THE CANAL COMMISSIONERS ON THE CHAMPLAIN CANAL.

STATE OF NEW YORK,
In Assembly, March 19, 1817.

A communication from the board of Canal Commissioners, being their report on the Northern or Champlain Canal, was read, and is in the words following, to wit : The advantages which will result from the connection of Lake Erie with the navigable waters of the Hudson, by means of a Canal, have been so frequently elucidated, and are indeed so obvious to every one who possesses a correct geographical knowledge of the West, that it has been deemed unnecessary to enumerate them. But presuming that the benefits to be derived from a similar communication with Lake Champlain, are not fully understood, or duly appreciated, the Commissioners ask the indulgence of briefly pointing out a few of the most prominent of these benefits. That part of this State which is contiguous to Lakes George and Champlain abounds in wood, timber, masts, spars, and lumber of all kinds, which, transported by the Northern Canal, would find a profitable sale along the Hudson, and in the City of New York, instead of being driven, as much of those articles have heretofore been, to a precarious market, by a long and hazardous navigation to Quebec. Some idea may be formed of the immense quantity of lumber which would be conveyed on the contemplated Canal, from the following statement, made on the best authority, and which embraces only that small section of the Northern part of this State from whence the transportation is carried on to the City of New York, or to intermediate markets. Within that tract of country, embracing the borders of Lake George and the timber land north and west of the great falls in Luzerne, there are annually made, and transported to the South, two millions of boards and planks : one million feet of square timber, consisting of oak white and yellow pine, besides dock logs, scantling, and other timber, to a great amount. A considerable portion of the northern part of this State is rough and mountainous, and in a great measure unfit for agricultural improvements. These broken tracts are covered with native forests, which, by the contemplated Canal, would furnish vast supplies of wood and lumber for many years ; and thus the great and increasing population which occupies the margin of the Hudson, would be supplied with boards, plank, timber, fencing materials, and even fuel, with less expense than from any other quarter : while at the same time the lands to the north, considerable tracts of which belong to the people of this State, would be greatly increased in value. The mountains in the vicinity of Lakes George and Champlain, produce a variety of minerals, among which are found, in inexhaustible quantities, the richest of iron ores. Several

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forges are in operation in the Counties of Washington, Warren, Essex, and Clinton, the number of which may be indefinitely increased : and the iron which they produce is very little, if at all, inferior in quality to the best iron manufactured in the United States : nor can it be doubted that, after the completion of the contemplated Canals, the middle and western parts of this State would be furnished with this necessary article on more advantageous terms than it can at present be procured. The inhabitants of a large tract of country on both sides of Lake Champlain, embracing a considerable portion of the State of Vermont, would find, by the Northern Canal, a permanent market in the City of New York, or at intermediate places, for their pot and pearl ashes, and also for all their surplus agricultural productions; from whence they would also be cheaply supplied with all the necessary articles of foreign growth. The iron of the northern part of this State, which at present is unwrought in the mine, and the fine marble of Vermont, which now lies useless in the quarry, would be converted into useful and ornamental purposes in the west, in exchange for salt and gypsum ; and thus the large sums which are annually sent abroad, for the purchase of iron, of salt, and of gypsum, would be retained among our citizens, and added to the permanent wealth of this State. In short, the connection of Lake Champlain with the Hudson, by means of a Canal, would greatly enhance the value of the northern lands : it would save vast sums in the price of transportation : it would open new and increasing sources of wealth : it would divert from the Province of Lower Canada, and turn to the South, the profits of the trade of Lake Champlain ; and by imparting activity and enterprise to agricultural, commercial, and mechanical pursuits, it would add to our industry and resources, and thereby augment the substantial wealth and prosperity of the State. The examination and levels for this Canal have been made under the direction of the Commissioners, by Col. Lewis Garin, and the line for the same has been marked out upon the maps herewith presented. There are two places of departure from the Hudson, in order to connect that river with Lake Champlain, each of which affords a very favourable route, in point of soil to be excavated, and of materials, for the artificial works; one of these routes, by commencing at the mouth of Fort Edward Creek, and pursuing the valley of that creek to the summit level, and then following the ravine of Wood Creek, will reach Whitehall in the distance of twenty-two miles. This route was formerly deemed most eligible by a board of Commissioners composed of General Schuyler and others. It is, however, supposed by the engineer that the other route may be preferable, which commences about six miles further down the river, near the mouth of Moses' Kill, and which, by the natural channel of this Kill and of Dead Creek, joined to a short length of artificial canal, forms the summit level, from whence it proceeds partly by the natural channel of Wood Creek, and partly by artificial cuts, which greatly shorten the distance, to Whitehall. The length of this route is twenty-eight miles, and it passes over a soil which is, in general, remarkably favourable, consisting principally of vegetable mould, loam and clay; at the northern termination of the Canal a few yards of lime stone excavation will be necessary : this however is not deemed an unfavourable circumstance, as the Stone are of such a quality as will be useful in the construction of locks; and it may be remarked that the materials for the construction of the locks, between Lake Champlain and the Hudson, can be procured with little difficulty. Between the Hudson and Lake Champlain, nine locks will be necessary, viz. three at the Hudson, of 7,779 feet lift, each, by which the summit level will be attained, and by a deep cutting, the greatest depth of which will be 12,465 feet, and the length of which is about two miles, the summit level will be extended fifteen miles : and will terminate about one mile south of Fort Ann. At this place two locks will be necessary, of 6,217 feet lift each. Between this point and Whitehall, two locks, the first of 8,223 feet lift, and the next of 9,213 feet lift, are to be made. At Whitehall the Canal is to be connected with Lake Champlain by two locks,

of 8,550 feet lift each. About fifteen miles of this route will need no excavation, as the Canal for that distance will occupy the natural channels of Moses' Kill, Dead Creek, and Wood Creek. In order to turn as much as possible the superfluous waters of freshets, and to insure at all times a sufficiency of water on the summit level, it is proposed to erect a dam across Half-way Brook, of eighteen feet in height, half a mile above the mouth of said brook, and by a natural ravine, leading to the south, to direct so much of the water of said brook to the summit level, and from thence, by several waste-weirs, into the Hudson, as may be necessary for the convenience of the Canal. The water in the Canal is not to be less than thirty feet wide at the surface, twenty feet at the bottom, and three feet deep, and the locks to be seventy-five feet long, and ten feet wide in the clear. By the mode of calculation heretofore adopted by the Commissioners, the whole expense between Lake Champlain and the Hudson at the mouth of Moses' Kill, will not exceed two hundred and fifty thousand dollars. From the mouth of Moses' Kill it is proposed to improve the channel of the Hudson, for the purposes of navigation, as far south as the Village of Stillwater, at the head of Stillwater Falls. This may be effected in the following manner. By erecting a dam three feet in height across the Hudson, at the head of Fort Miller Falls, the river above, as far as Fort Edward would at all times afford a sufficiency of water for boats drawing three feet. To overcome the descent of Fort Miller Falls, a side cut or artificial Canal, of about one mile in length, and with two locks, of 40,321 feet lift each, will be necessary. These works, including the dam, locks, excavation, towing path, and all other expenses, may be estimated at fifty thousand dollars. Two and a half miles below the south end of this Canal, at the head of Saratoga Falls, a dam three feet in height is to be made across the river, and a side cut round the falls, similar to the above, of about one mile in length, with two locks of 6,198 feet lift each. It is believed that all the artificial works at this place may be constructed for thirty-five thousand dollars. Thirteen miles below this place, at the head of Stillwater Falls, another dam of three feet in height will in like manner insure a good boat navigation up to the Saratoga Falls. The cost of this dam, the construction of a towing path, with several bridges, the purchase of Schuyler's Mill, which it is supposed will be necessary, together with all the other expenses of this section, are estimated at fifty thousand dollars. From the village of Stillwater, at a point above the dam last mentioned, it is proposed to cut an artificial Canal to the village of Waterford, where it is to be connected with the Hudson. This Canal will be supplied with water from the river at its upper end. Its length will be nearly twelve miles, and the whole descent is 76,464 feet; which will require eight locks. The excavation of this Canal, for some distance near the upper end, will be considerably expensive, as it passes through a slate rock; the middle and lower parts, however, are very favourable. The expenses, from Stillwater to Waterford, may be estimated as follows:

| | | | | | | |
|---|---|---|---|---|---|-----------|
| 76 feet lockage, at \$1,000 per foot | - | - | - | - | - | \$76,000 |
| 12 miles of Excavation and Towing path, with bridges, culverts, and other necessary works, at an average of \$30,000 per mile | - | - | - | - | - | 360,000 |
| <i>Recapitulation of Expenses.</i> | | | | | | |
| From Whitehall to the Hudson | - | - | - | - | - | 250,000 |
| Dam, side cut, and other works at Fort Miller Falls | - | - | - | - | - | 50,000 |
| Ditto at Saratoga Falls | - | - | - | - | - | 35,000 |
| To Stillwater, including dam, &c. | - | - | - | - | - | 50,000 |
| From Stillwater to Waterford, including lockage | - | - | - | - | - | 436,000 |
| Add for contingencies, Engineers, and Superintendence | - | - | - | - | - | 50,000 |
| Total | | | | | | \$871,000 |

Whether the Canal from Lake Champlain enters the Hudson at Fort Edward Creek, or at Moses' Kill, is not very material in the estimate of expense: and the Commis-

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sioners wish to be explicitly understood, that they consider this question as still open, and as one which will require mature deliberation. It is ascertained that both routes are equally practicable. The termination of the Northern Canal in the Hudson, at Waterford, will afford the cities of Albany and Troy, and the villages of Lansingburgh and Waterford, a full participation of its benefits; and its approximation to the great Western Canal will open the most beneficial channels of communication between every great section of the country, and furnish every facility for promoting the activity, and enlarging the sphere, of inland trade, which constitutes one of the principal elements of national opulence, prosperity, and greatness. And before the lapse of half a century, those who succeed us will witness, in the consolidation of those cities and villages into one great city, a union of interests and sympathies which will totally dissipate the apprehensions and jealousies that may now exist.

All which is respectfully submitted.

DE WITT CLINTON.
S. VAN RENSSELAER.
MYRON HOLLEY.
SAMUEL YOUNG.

Albany, 18th March, 1817.

STATE OF NEW YORK,
Secretary's Office.

I certify the preceding to be a true extract from the Journal of the Assembly of this State, of the year 1817, deposited in this office.

In testimony whereof, I have hereunto affixed the Seal of this Office, at
[L. s.] the City of Albany, the 4th day of October, 1828.

ARCHIBALD CAMPBELL,
Deputy Secretary.

By Nathaniel Pitcher, Lieutenant Governor of the State of New York, acting as Governor of the said State:

It is hereby certified, that the preceding attestation is in due form, and by the proper officer.

In testimony whereof, I have hereunto affixed the Great Seal of this State,
[L. s.] at the City of Albany, the 4th day of October, 1828.

NATHANIEL PITCHER.

APPENDIX, No. XLV.

ESTIMATE

OF THE

HEIGHT OF THE WHITE HILLS, IN NEW HAMPSHIRE.

BY N. BOWDITCH:

FROM THE MEMOIRS OF THE AMERICAN ACADEMY OF ARTS AND SCIENCES.

Memoirs of the American Academy of Arts and Sciences, Vol. III. Part II.—
CAMBRIDGE, printed by HILLIARD & METCALF, 1815.

ESTIMATE OF THE HEIGHT OF THE WHITE HILLS, IN NEW HAMPSHIRE, BY
NATHANIEL BOWDITCH.

The White Hills in New Hampshire, which are the highest mountains in New England, have been estimated by Dr. Belknap, in his History of New Hampshire, to be above 10,000 feet above the level of the sea: but from some barometrical observations, made in July, 1804, by several gentlemen who ascended the mountains, it appears that his computation is by far too great, and that the real height does not much exceed 7000 feet. This will evidently appear by comparing the observations given in the following table. Those on the top of Mount Washington, the highest of the White Hills, were made by Doctor Cutler and Professor Peck: those at Mr. Messervey's, in the town of Adams, (not far from the foot of the mountain,) were made by a person who observed the state of the barometer and thermometer, at intervals of thirty minutes, the whole day the company were on the mountain. The observations at Salem were made by Dr. Holyoke; and those at Boston, by the late Rev. Mr. Emerson. All these observations were made in the shade. The barometer varied but very little on the sea coast for several days before and after the 28th of July. The range from the 25th to the 30th of July, at Salem, was from 30.00 to 30.11; and at Boston, from 29.9 to 30.1. The smallness of these variations is, in general, conducive to the accuracy of the result of the calculation by barometrical observations,

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—
Extract from the
Memoirs of the A-
merican Academy
of Arts & Sciences.

Appendix. MR. BOWDITCH'S ESTIMATE OF THE HEIGHT OF WHITE HILLS.
No. 45.

Extract from the
Memoirs of the A-
merican Academy
of Arts & Sciences.

| PLACE OF OBSERVATION. | TIMES. | BAROMETER. | THERMOMETER. |
|---|------------------|------------|--------------|
| At the summit of Mount Washington, At Messervey's, in Adams, | d. h. h. | | |
| | July 28, 1 to 3 | 23.39 | 51 |
| | July 27, 7 a. m. | 28.99 | 62 |
| | July 28, 6 to 30 | 29.04 | 57 |
| | 7 | .07 | 60 |
| | 7 30 | .07 | 65 |
| | 8 0 | .07 | 68 |
| | 8 30 | .08 | 70 |
| | 9 0 | .08 | 74 |
| | 9 30 | .11 | 76 |
| | 10 0 | .11 | 75 |
| | 10 30 | .11 | 79 |
| | 11 0 | .11 | 79 |
| | 11 30 | .13 | 80 |
| | noon. | .13 | 82 |
| | 0 30 | .13 | 82 |
| | 1 0 | .13 | 82 |
| | 1 30 | .13 | 83 |
| | 2 0 | .13 | 86 |
| | 2 30 | .13 | 86 |
| | 3 0 | .13 | 87 |
| | 3 30 | .12 | 77 |
| | 4 0 | .12 | 75 |
| | 4 30 | .12 | 76 |
| | 5 0 | .12 | 77 |
| | 5 30 | .13 | 79 |
| | 6 0 | .13 | 81 |
| At Salem, Dr. Holyoke, | 6 30 | .13 | 75 |
| | 7 0 | .13 | 72 |
| | July 27, 8 a. m. | 30.02 | 68 |
| | 2 p. m. | - | 82 |
| | 7 p. m. | - | 72 |
| | 10 p. m. | 30.09 | 65 |
| At Boston, by Rev. Mr. Emerson, | July 28, 8 a. m. | 30.12 | 74 |
| | 2 p. m. | - | 82 |
| | 7 p. m. | - | 73 |
| | 10 p. m. | 30.11 | 69 |
| | July 27, 8 a. m. | 30.00 | 66 |
| | 2 p. m. | .00 | 78 |
| | 7 p. m. | .00 | 74 |
| | 10 p. m. | .00 | 68 |
| | July 28, 8 a. m. | .10 | 69 |
| | 2 p. m. | .10 | 78 |
| | 7 p. m. | .10 | 76 |
| | 10 p. m. | .10 | 73 |

The mean of the twenty-six observations made at Adams, on the 28th of July, gives barometer 29.11 inches, thermometer 76.3. The mean of Dr. Holyoke's observations in the same day is, barometer 30.115 inches, thermometer 76.3. The observations of Mr. Emerson, who was probably situated a little higher above the level of the sea than Dr. Holyoke, did not differ sensibly from these. Computing from these observations the elevation of Adams above Salem, (by the rule given in Dr. Maskelyne's Introduction to Taylor's Logarithms,) it becomes 980 feet. The observation of July 27, calculated in the same way, gave 965 feet. As there were twenty-six observations on the 28th of July, and but one on the 27th July, the mean of all will be nearly 979

feet. To this add 34 feet, the height of Dr. Holyoke's barometer above the level of the sea, the sum 1,013 feet is the elevation of Mr. Messervey's house in Adams above the level of the sea. Dr. Belknap estimates this height to be nearly 3000 feet, which is about three times its real value.

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Extract from the
Memoirs of the A-
merican Academy
of Arts & Sciences.

By comparing the observations made at the top of Mount Washington, viz: barometer 23.39 inches, and thermometer 54 degrees, with the mean of the observations at Adams, at the same time—barometer 29.13, thermometer 84.8—the result is 6,149 feet, for the difference of elevation of these two places. To this add 1,013 feet, the height of Adams above the level of the sea, and we have the height of Mount Washington above the level 7,162 feet. This estimate may also be made by comparing the observations at Mount Washington with those made at Salem, at the same time, viz: barometer 30.115 inches, and thermometer 82 degrees, which give 7,021 feet; to which add 34 feet, (the elevation of Dr. Holyoke's barometer,) and we have 7,055 feet for the height of the mountain. The mean of this and the former estimate is 7,108 feet; which may be assumed as the elevation of the summit of Mount Washington above the level of the sea.

APPENDIX, No. XLVI.

EXTRACTS

FROM

THE PROTOCOLS AND CORRESPONDENCE

OF

THE GHENT COMMISSIONERS.—1814.

Extracts from Protocol of Conference between the American and British Commissioners at Ghent, dated August 8, 1814.

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Extracts from the
Protocols and Cor-
respondence of the
Ghent Commis-
sioners.

“The British Commissioners stated the following subjects, as those upon which, it appeared to them, that the discussions between themselves and the American Commissioners would be likely to turn.”

“A revision of the boundary line between the British and American territories, with a view to prevent future uncertainty and dispute.”

“The American Commissioners at this meeting stated, that, upon the first and third points proposed by the British Commissioners, they were provided with instructions from their Government; and that the second and fourth of these points were not provided for in their instructions.”

Extract of a Note from the British to the American Commissioners, dated at

GHENT, August 8, 1814.

“As the undersigned are desirous of stating every point, in connection with the subject, which may reasonably influence the decision of the American Plenipotentiaries in the exercise of their discretion, they avail themselves of this opportunity to repeat, what they have already stated, that Great Britain desires the revision of the frontier between her North American dominions and those of the United States, not with any view to an acquisition of territory as such, but for the purpose of securing her possessions, and preventing future disputes.

“The British Government consider the Lakes, from Lake Ontario to Lake Superior, both inclusive, to be the natural military frontier of the British possessions in North America. As the weaker power, on the North American Continent, the least capable of acting offensively, and the most exposed to sudden invasion, Great Britain considers the military occupation of these Lakes as necessary to the security of her dominions. A boundary line equally dividing these waters, with a right in each nation to arm, both upon the Lakes and upon their shores, is calculated to create a contest for naval ascendancy in peace as well as in war.

“The power which occupies these Lakes should, as a necessary result, have the military occupation of both shores. In furtherance of this object, the British Government is

prepared to propose a boundary. But as this might be misconstrued as an intention to extend their possessions to the southward of the Lakes, (which is by no means the object they have in view,) they are disposed to leave the territorial limits undisturbed; and, as incident to them, the free commercial navigation of the Lakes: Provided, that the American Government will stipulate not to maintain or construct any fortifications upon, or within a limited distance of, the shores, or maintain or construct any armed vessel upon the Lakes in question, or in the rivers which empty themselves into the same.

"If this can be adjusted, there will then remain for discussion the arrangement of the north-western boundary between Lake Superior and the Mississippi; the free navigation of that river, and such a variation of the line of frontier as may secure a direct communication between Quebec and Halifax."

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Extracts from the
Protocols and Cor-
respondence of the
Ghent Commis-
sioners.

Extract of a Note from the American to the British Commissioners, dated at

GHEENT, August 24, 1814.

"The undersigned further perceive, that under the alleged purpose of opening a direct communication between two of the British Provinces in America, the British Government require a cession of territory, forming a part of one of the States of the American Union, and that they propose, without purpose specifically alleged, to draw the boundary line westward, not from the Lake of the Woods, as it now is, but from Lake Superior. It must be perfectly immaterial to the United States, whether the object of the British Government, in demanding the dismemberment of the United States is to acquire territory, as such, or for purposes less liable, in the eyes of the world, to be ascribed to the desire of aggrandizement. Whatever the motive may be, and with whatever consistency views of conquest may be disclaimed, while demanding for herself, or for the Indians, a cession of territory more extensive than the whole Island of Great Britain, the duty marked out for the Undersigned is the same: They have no authority to cede any part of the territory of the United States; and to no stipulation to that effect will they subscribe."

Extract of a Note from the British to the American Commissioners, dated at

GHEENT, September 4, 1814.

"With respect to the boundary of the District of Maine, and that of the north-western frontier of the United States, the undersigned were not prepared to anticipate the objections contained in the note of the American Plenipotentiaries, 'that they were instructed to treat for the revision of their boundary lines,' with the statement which they have subsequently made, that they have no authority to cede any part, however insignificant, of the territories of the United States, although the proposal left it open to them to demand an equivalent for such cession either in frontier or otherwise.

"The American Plenipotentiaries must be aware that the boundary of the District of Maine has never been correctly ascertained; that the one asserted, at present, by the American Government, by which the direct communication between Halifax and Quebec becomes interrupted, was not in contemplation of the British Plenipotentiaries who concluded the treaty of 1783, and that the greater part of the territory in question is actually unoccupied.

"The undersigned are persuaded that an arrangement on this point might be easily made, if entered into with the spirit of conciliation, without any prejudice to the interests of the district in question."

Appendix. Extract of a Note from the American to the British Commissioners, dated at
 No. 46.

GHEENT, September 9, 1814.

Extracts from the
 Protocols and Cor-
 respondence at the
 Ghent Commis-
 sioners

“ With regard to the cession of a part of the District of Maine, as to which the British Plenipotentiaries are unable to reconcile the objections made by the undersigned with their previous declaration, they have the honor to observe, that at the conference of the 8th ult. the British Plenipotentiaries stated, as one of the subjects suitable for discussion, a revision of the boundary line between the British and American territories, with a view to prevent uncertainty and dispute; and that it was on the point, thus stated, that the undersigned declared that they were provided with instructions from their Government, a declaration which did not imply that they were instructed to make any cession of territory, in any quarter, or to agree to a revision of the line, or to any exchange of territory, where no uncertainty or dispute existed.

The undersigned perceive no uncertainty or matter of doubt in the treaty of 1783, with respect to that part of the boundary of the District of Maine which would be affected by the proposal of Great Britain on that subject. They never have understood that the British Plenipotentiaries, who signed that treaty, had contemplated a boundary different from that fixed by the treaty, and which requires nothing more, in order to be definitely ascertained, than to be surveyed in conformity with its provisions. This subject not having been a matter of uncertainty or dispute, the undersigned are not instructed upon it; and they can have no authority to cede any part of the State of Massachusetts, even for what the British Government might consider a fair equivalent.”

Extract of a Note from the British to the American Commissioners, dated at

GHEENT, September 19, 1814.

“ With respect to the boundary of the District of Maine, the undersigned observe, with regret, that although the American Plenipotentiaries have acknowledged themselves to be instructed to discuss a revision of the boundary line, with a view to prevent uncertainty and dispute; yet, by assuming an exclusive right at once to decide what is or is not a subject of uncertainty and dispute, they have rendered their powers nugatory, or inadmissibly partial in their operation.”

Extract of a Note from the American to the British Commissioners, dated at

GHEENT, September 26, 1814.

“ The undersigned are far from assuming the exclusive right to decide what is, or is not, a subject of uncertainty and dispute, with regard to the boundary of the District of Maine. But until the British Plenipotentiaries shall have shewn in what respect the part of that boundary, which would be affected by their proposal, is such a subject, the undersigned may be permitted to assert that it is not.

“ The treaty of 1783 described the boundary as ‘ a line to be drawn along the middle of the river St. Croix, from its mouth, in the Bay of Fundy, to its source, and from its source directly north to the highlands which divide the rivers that fall into the Atlantic Ocean, from those which fall into the river St. Lawrence; and thence along the said highlands to the north-westernmost head of Connecticut river.’ Doubts having arisen as to the St. Croix, designated in the treaty of 1783, a provision was made by that of 1794, for ascertaining it; and it may be fairly inferred from the limi-

tation of the article to that sole object, that, even in the judgment of Great Britain, no other subject of controversy existed in relation to the extension of the boundary line from the source of that river. That river and its source having been accordingly ascertained, the undersigned are prepared to propose the appointment of Commissioners by the two Governments to extend the line to the highlands, conformably to the treaty of 1783. The proposal, however, of the British Plenipotentiaries was not to ascertain, but to vary those lines in such manner as to secure a direct communication between Quebec and Halifax; an alteration which could not be effected without a cession, by the United States to Great Britain, of all that portion of the State of Massachusetts intervening between the Province of New Brunswick and Quebec, although, unquestionably, included within the boundary lines fixed by that treaty. Whether it was contemplated, on the part of Great Britain, to obtain the cession with or without an equivalent in frontier, or otherwise, the undersigned, in stating that they were not instructed or authorized to treat on the subject of cession, have not declined to discuss any matter of uncertainty or dispute, which the British Plenipotentiaries may point out to exist, respecting the boundaries in that, or in any other quarter; and are, therefore, not liable to the imputation of having rendered their powers on the subject nugatory, or inadmissibly partial in their operation."

Appendix.
No. 46.

Extract from the
Protocols and Cor-
respondence of the
Ghent Commis-
sioners.

Extract of a Note from the British to the American Commissioners, dated

GHEENT, October 8, 1814.

"The British Government never required that all that portion of the State of Massachusetts intervening between the Province of New Brunswick and Quebec, should be ceded to Great Britain; but only that small portion of unsettled country which interrupts the communication between Quebec and Halifax, there being much doubt whether it does not already belong to Great Britain."

Extract of a Note from the British to the American Commissioners, dated

GHEENT, October 21, 1814.

"On the question of the boundary between the dominions of his Majesty and those of the United States, the undersigned are led to expect, from the discussion which this subject has already undergone, that the north-western boundary, from the Lake of the Woods to the Mississippi, (the intended arrangement of 1803,) will be admitted without objection.

"In regard to other boundaries, the American Plenipotentiaries, in their note, of August 24, appeared, in some measure, to object to the propositions then made by the undersigned, as not being on the basis of *uti possidetis*. The undersigned are willing to treat on that basis, subject to such modifications as mutual convenience may be found to require; and they trust that the American Plenipotentiaries will shew by their ready acceptance of this basis, that they duly appreciate the moderation of his Majesty's Government, in so far consulting the honor and fair pretensions of the United States, as, in the relative situation of the two countries, to authorize such a proposition."

Extract of a Note from the American to the British Commissioners, dated at

GHEENT, October 24, 1814.

"The undersigned can now only repeat those declarations, and decline treating upon the basis of *uti possidetis*, or upon any other principle involving a cession of any

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Extracts from the
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sioners.

part of the territory of the United States. As they have uniformly stated, they can treat only upon the principle of a mutual restoration of whatever territory may have been taken by either party. From this principle they cannot recede; and the undersigned, after the repeated declarations of the British Plenipotentiaries, that Great Britain had no view to the acquisition of territory in this negotiation, deem it necessary to add, that the utility of its continuance depends on their adherence to this principle."

Extract from American Note, No. 6, in answer to British Note, No. 6, dated at

Ghent, November 10, 1814.

"In respect to the intended review of the other boundaries between the British and American territories, with the view to prevent future uncertainty and dispute, the undersigned propose the reference of the whole subject to Commissioners; and they present, accordingly, five articles, drawn on the principles formerly adopted by the two powers for settling the question respecting the river St. Croix."

The undersigned have had the honour to receive the note and project of a treaty of peace presented by the American Plenipotentiaries on the 10th instant.

The undersigned are of opinion that the most convenient course for them to adopt will be to return this project with their marginal alterations and suggestions on the several articles of which it is composed.

GAMBIER,
HENRY GOULDBURN,
WILLIAM ADAMS.

Ghent, Nov. 26, 1814

*Project of a Treaty, as returned by the British to the American
Plenipotentiaries 26th Nov. 1814.*

Treaty of Peace and Amity, between his Britannic Majesty, and the United States of America.

The following marginal remarks and alterations were made and proposed by the British Plenipotentiaries:

NOTE. — It is proposed to omit altogether the words that are underlined.

Article 2.

(6) Shall have been exchanged,

(7) Exchange of the ratifications

Article 2d. Immediately after the *respective* ratifications of this treaty, (6) orders shall be sent to the armies, squadrons, officers, subjects, and citizens, of the two powers, to cease from all hostilities: and to prevent all causes of complaint, which might arise on account of the prizes which may be taken at sea after the (7) *signing* of this treaty, it is reciprocally agreed, that the vessels and effects which may be taken in the Channel, and in the North

(8) The period of the exchange of the ratifications

(9) The same term of ——— for all parts of the Mediterranean:

Seas, after the space of ——— from *Appendix*
 (8) *that of the signature* hercof, shall be No. 46.
 restored on each side: that the terms shall
 be ——— from the Channel and the North Extracts from the
 Protocols and Cor-
 respondence of the
 Client. Commis-
 sioners.
 Seas to the Canary Islands inclusively, (9)
*whether in the Ocean or the Mediter-
 ranean:* of ——— from the said Cana-
 ry Islands to the equinoctial line or equa-
 tor, and of ——— in all other parts of
 the world without exception.

Article 4.

Article 4. Whereas, neither that point of the Highlands lying due north from the source of the river St. Croix, and designated in the former treaty of peace between the two powers as the north-west angle of Nova Scotia, nor the north-westernmost head of Connecticut river, has yet been ascertained; and whereas that part of the boundary line between the dominions of the two powers, which extends from the source of the river St. Croix directly north to the above mentioned north-west angle of Nova Scotia; thence, along the said Highlands, which divide those rivers that empty themselves into the river St. Lawrence, from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut river; thence down along the middle of that river to the forty-fifth degree of north latitude; thence, by a line due west, on said latitude, until it strikes the river Iroquois, or Cataraguy, has not yet been surveyed: It is agreed that, for these several purposes *three* (1) Commissioners shall be appointed, sworn, (*mutatis mutandis*) and authorized to act exactly in the manner directed with respect to those mentioned in the next preceding article. (2) The said Commissioners shall meet at ———, and shall have power to adjourn to such other place or places as they shall think fit. The said Commissioners, *or a majority of them*, shall have power to ascertain and determine the points abovementioned, in conformity with the provisions of the said treaty of peace, (3) and shall cause the boundary aforesaid, from the source of the river St. Croix to the river Iroquois, or Cataraguy, to be sur-

(1) Two

(2) Unless otherwise specified in the present article.

(3) Of 1783

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sioners.

(t) And in the event of the said two Commissioners differing, or both or either of them refusing, declining, or wilfully omitting to act, such reports, declarations, or statements, shall be made by them, or either of them; and such reference to a friendly Sovereign or State shall be made, in all respects, as in the latter part of the third article is contained, and in as full a manner as if the same was herein repeated.

veyed and marked according to the said provisions.

The said Commissioners, *or a majority of them*, shall make a map of the said boundary, and annex to it a declaration, under their hands and seals, certifying it to be the true map of the said boundary, and particularizing the latitude and longitude of the north-west angle of Nova Scotia, of the north-westernmost head of Connecticut River, and of such other points of the said boundary as they may deem proper; and both parties agree to consider such map and declaration as finally and conclusively fixing the said boundary. (t)

Protocol of a Conference, held the 1st December, 1814, at Ghent.

At a conference held this day, the American Plenipotentiaries proposed the following alterations in their project, as amended by the British Plenipotentiaries.

3. Article 2d. The term to be fifteen days in the Channel, in the North Seas, in all parts of the Atlantic Ocean to the equinoctial line or equator, and in all parts of the Mediterranean. Two months in the Atlantic Ocean, to the latitude of the Cape of Good Hope, and three months in all other parts of the world.

In lieu of this alteration, the British Plenipotentiaries proposed the following, viz: "That all vessels and effects which may be taken after the space of twelve days from the period of the exchange of the said ratifications, upon all parts of the coasts of North America, from the latitude of 23 degrees north, to the latitude of 47 degrees north, and as far eastward in the Atlantic Ocean as the 65th degree of west longitude from the meridian of Greenwich, shall be restored on each side. That the term shall be thirty days in all other parts of the Atlantic Ocean, as far eastward as the entrance of the British Channel, and southward as far as the equinoctial line or equator, and the same time for the Gulf of Mexico and all parts of the West Indies. Forty days for the British Channel and the North Seas. The same time for all parts of the Mediterranean, and one hundred and fifty days for all other parts of the world, without exception," which was reserved by the American Plenipotentiaries for consideration.

APPENDIX, No. XLVII.

EXTRACTS

FROM

GRANTS OF LAND

BY

THE PROVINCE OF NEW BRUNSWICK.

GRANT

TO SIMON HEBERT OF A TRACT OF LAND IN THE PARISH OF KENT AND COUNTY OF YORK.

Appendix.
No. 47.

Extracts from
Grants of land by
the province of N.
Brunswick.

To Simon Hebert.

NEW-BRUNSWICK.

George the Fourth by the grace of God of the United Kingdom of Great Britain and Ireland King, Defender of the Faith, &c.

To all to whom these presents shall come, Greeting :

Know Ye that we of our special grace certain knowledge and mere motion have given and granted and we do by these presents for us our heirs and successors give and grant unto Simon Hebert his heirs and assigns all that lot or tract of land situate in the parish of Kent and county of York in our Province of New Brunswick, and bounded as follows to wit : Beginning at a marked stake on the north-east shore of the River Saint John a few chains distant from the mouth of Madawaska River, thence running by the magnet north forty-five degrees east one hundred and twenty-five chains of four poles each ; thence north forty-five degrees west twenty-five chains : thence south forty-five degrees west ninety chains to a Road reserved (four poles wide) along the eastern shore of Madawaska River; thence bounded by the said Reserved Road and by a reserved Landing as represented on the annexed plan to the shore of the River St. John; thence along the same shore to the place of beginning; containing two hundred and fifty acres more or less with an allowance of ten per cent. for roads.

* * * * *

Given under the great seal of our Province of New Brunswick. Witness our trusty and well-beloved Sir Howard Douglas Baronet our Lieutenant Governor and Commander in Chief of our said Province at Fredericton the sixteenth day of May in the year of our Lord one thousand eight hundred and twenty-five and in the sixth year of our reign.

By command of His Excellency in Council.

WM. F. ODELL.

Appendix.
No 47.

Extracts from
Grants of Land by
the Province of N.
Brunswick

To Edward J. Mann
and others.

GRANT

TO EDWARD J. MANN AND OTHERS OF THREE TRACTS OF LAND, &c. IN THE
PARISH OF ALNWICK AND COUNTY OF NORTHUMBERLAND.

NEW-BRUNSWICK.

George the Third by the Grace of God of the United Kingdom of
ED. WINSLOW. Great Britain and Ireland King, Defender of the faith, &c.

To all to whom these presents shall come Greeting : Whereas Edward J. Mann Esquire, Jonathan Hoar, and Daniel Babbit, Junior, have manifested their desire to settle on certain Lands hereinafter described, and make proof of their ability to cultivate and improve the same according to the conditions hereinafter specified as well as of their loyalty to us and attachment to our Government: Know ye therefore that we of our special grace certain knowledge and mere motion have given and granted and we do by these presents for us our Heirs and Successors give and grant unto the said Edward J. Mann, Jonathan Hoar and Daniel Babbit in severalty that is each of them and unto each and every of their several and respective heirs and assigns in and by the several divisions quantities lots pieces and parcels herein after mentioned Three certain Tracts or lots of Land together with an Island containing in the whole one thousand and fifty acres more or less with the usual allowance of ten per cent for Roads and waste, that is to say unto the said Edward J. Mann the *first Tract together with the Island herein after described*. Unto the said Jonathan Hoar the second Tract. And unto the said Daniel Babbit the third Tract: the said three Tracts situate lying and being on the *South Shore of Restigouche River, within the Parish of Alnwick* in the County of Northumberland and abutted and bounded as follows, to wit: The first Tract Beginning at a marked Birch tree standing on or near the *Southerly Bank or shore of the said River about three miles and twenty chains, measured along the said Shore above or Westerly from Old Church Point.*

The Island included in this Grant is situated in the said Restigouche River in front of the Tract above described along the said Southerly shore about eight chains therefrom being bounded by the waters of the said River and is commonly called Man's Island containing in the whole thereof twenty-seven acres more or less.

Given under the Great Seal of our Province of New-Brunswick. Witness our trusty and well-beloved Edward Winslow Esquire President of our Council and Commander in Chief of our said Province at Fredericton, the twentieth day of February, in the year of our Lord one thousand eight hundred and eight, and in the forty-eight year of our Reign.

By command of the President in Council.

JON'N ODELL.

GRANT

TO JOHN KING, OF A TRACT OF LAND LYING AT THE MOUTH OF SALMON RIVER
WHERE THE SAME EMPTIES ITSELF INTO THE RIVER ST. JOHN.

NEW-BRUNSWICK.

To John King.

George the Third, by the Grace of God, of the United Kingdom of
THOMAS SAUMAREZ. of Great Britain and Ireland King, Defender of the Faith, &c.

To all to whom these presents shall come, Greeting : Know
Ye that we, of our special grace certain knowledge and mere motion, have given and

granted and we do by these presents, for us our Heirs and Successors, give and grant unto John King his heirs and assigns a *Tract of Land situate lying and being at the entrance of Salmon River which discharges into the River Saint John on its Easterly side about six miles below the Great Falls*, within the County of York, and abutted and bounded as follows, to wit :

Appendix.
No. 47.
Extracts from
Grants of land by
the province of N.
Brunswick.
To John King.

Given under the Great Seal of our Province of New-Brunswick.

Witness our trusty and well-beloved Sir Thomas Saumarez, President and Commander in Chief of our said Province, at Fredericton, the twenty-seventh day of October, in the year of our Lord one thousand eight hundred and thirteen, and in the fifty-fourth year of our Reign.

By command of the President in Council.

JON'N ODELL.

GRANT

TO ALEXANDER STEWART OF A TRACT OF LAND IN THE PARISH OF KENT, AND COUNTY OF YORK.

NEW-BRUNSWICK.

George the Fourth, by the grace of God, of the United Kingdom of Great Britain and Ireland King, Defender of the Faith, &c.

To Alex. Stewart.

To all to whom these presents shall come, Greeting :

Know Ye that we, of our special grace, certain knowledge, and mere motion, have given and granted, and we do by these presents, for us our heirs and successors, give and grant unto Alexander Stewart his heirs and assigns, all that lot or tract of Land, situate in the Parish of Kent and County of York in our Province of New-Brunswick, and bounded as follows, to wit : *Beginning at an Elm tree on the West side of the River Saint John, being the upper boundary of a reserve for the use of the Garrison at the Great Falls, and thence running along the northerly line of the said reserve* by the magnet west one hundred and ten chains of four poles each ; thence north thirty-four degrees west thirty-seven chains ; thence east to the said river (a marked Spruce tree standing on the bank thereof in the said line) ; and thence along the said river to the place of beginning: containing three hundred acres.

Given under the Great Seal of our Province of New-Brunswick. Witness our trusty and well-beloved Ward Chipman, Esquire, our President and Commander in Chief of our said Province, at Fredericton, the nineteenth day of January, in the year of our Lord one thousand eight hundred and twenty-four, and in the fourth year of our Reign.

By command of the President in Council.

WM. F. ODELL.

APPENDIX, No. XLVIII.

EXTRACTS

FROM

THE ACTS OF THE GENERAL ASSEMBLY

OF

THE PROVINCE OF NEW BRUNSWICK.

ACTS

Appendix.

No. 48.

Acts of New
Brunswick.

Boundaries of
Counties, Parishes
and Towns.

ESTABLISHING COUNTIES, PARISHES, AND TOWNS ON THE CANADA LINE, BAYE
DES CHALEURS, AND RISTIGOUCHE AND ST. JOHN RIVERS.

CAP. I.

26 Geo. III. *An Act for the better ascertaining and confirming the boundaries of the several
counties within this province, and for subdividing them into Towns or Parishes.*
26 Geo. III. 1786.

Whereas his most gracious Majesty, by his Royal Letters Patent under the great
Seal of this Province, bearing date the eighteenth day of May, one thousand seven
hundred and eighty-five, was pleased to erect and constitute into one distinct and sepa-
rate county, all that tract or district of land, &c. &c.

Northumberland.

And whereas by like letters patent since passed, another tract or district of land ly-
ing within this province, bounded southerly by the county of Westmoreland, easterly
by the Gulf of St. Lawrence, and the *Baie des Chaleurs*, northerly by the said Bay
and the *Southern Boundary of the Province of Quebec*, and westerly by a continu-
ation of the Western boundary line of the said county of Westmoreland, was also
erected into one distinct and separate county, to be called and known by the name
of the county of Northumberland.

York.

And whereas by like Letters Patent, in like manner since passed, another tract or
district of land, lying within this Province on both sides the River St John, bounded
on the south-west by Charlotte county, on the north east by the county of Northum-
berland, on the north-west by the Province of Quebec, and on the south-east by the
North boundary line of the township of Maugerville, and by the said line continued
to the North-east till it meets the western bounds of Northumberland county, and
south-west to the Eastern bounds of the county of Charlotte, was also erected into one
distinct and separate county, to be called and known by the name of the County of
York.

IX. The said county of Northumberland shall be divided into two towns or Parishes, viz: The first Town or Parish to be called, known and distinguished by the name of New Castle, &c. &c.

Acts of New Brunswick.

Boundaries of Counties, Parishes and towns.

York.

The *second Town or Parish* to be called, known and distinguished by the name of *Alnwick*, bounded *Southerly by the North line of said Town of New Castle, &c. &c.*

CAP. IV.

An act in addition to an act intituled "an act for the better ascertaining and confirming the boundaries of the several counties within this Province, and for subdividing them into Towns and Parishes." Passed 16th March, 1803.

43 Geo. III

Be it enacted by the Lieut. Governor, Council, and Assembly, That a direct line from the North-west corner of the county of Westmoreland, until it meets the South-west branch of Miramichi river; where the portage leading from the river Nashwaack now joins the same, thence by a line running north twenty two degrees thirty minutes west by the true meridian from the junction of the said Portage, with the said South-west branch of the Miramichi, as aforesaid, to the Southern boundary of the Province of Lower Canada, shall be deemed the boundary line of the county of Northumberland, and the dividing line between that and the adjoining counties.

Northumberland

CAP. V.

An act for erecting the Upper Part of the County of York, into a distinct Town and Parish. Passed 16th March, 1803.

43 Geo. III.

Be it enacted, &c. That all that tract of country in the county of York, laying and being above the Towns of Woodstock and Northampton, and extending to the *White March, three miles above the garrison at Presque Isle* inclusive, and from the said upper boundary extending a line parallel to the upper boundary of the said Parishes of Woodstock and Northampton, be and the same is hereby erected and made a distinct Town and Parish by the name of the town and parish of Wakefield.

Upper part of the county of York.

CAP. XVII.

An act in further addition to an act intituled "an act for the better ascertaining and confirming the boundaries of the several counties within this Province, and for subdividing them into Towns or Parishes." Passed 7th March, 1814.

54 Geo. III

Whereas the Towns or Parishes of New-Castle and Alnwick, in the county of Northumberland. &c. &c. And whereas it has become necessary by the means of the increase of population of the said county of Northumberland, to constitute other Towns or Parishes within the said county,

Parishes of New Castle & Alnwick

II. Be it therefore further enacted, That there be erected and constituted in the said county, and there are hereby enacted and constituted within the same, *nine other Towns or Parishes*, to be bounded, described and named as follows, to wit:

The first town or parish, &c. &c. The

Appendix. *seventh town or parish to be called, known, and distinguished by the name of Saumarez; to be bounded on the North by the South line of lot number one, in the grant to Simon Arsenau and associates, near the Little Nipissiquid, on the Bay of Chaleur, &c. The eighth Town or Parish to be called, known, and distinguished by the name of Beresford; to be bounded southerly by the Parish of Saumarez and the continuation of the north line thereof, until it meets the county line; easterly, northerly, and north-westerly, by the Bay of Chaleur, and the River Restigouche, including Heron Islands, and the Islands in the said Restigouche River; and South-westerly by the said county line.*

CAP. XXII.

2 Geo. IV. *An act to erect the upper part of the county of York into a Town or Parish.*
Passed 20th March, 1821.

Upper part of the county of York. Be it enacted by the Lieutenant Governor, Council, and Assembly, That *all that part of the county of York lying above the Parish of Wakefield, on both sides of the River St. John, be, and the same is hereby erected into a town or parish, and to be distinguished by the name of the Town or Parish of Kent.*

CAP. XXXI.

7 Geo. IV. *An act for the division of the county of Northumberland into three counties, and to provide for the government and representation of the two new counties.—*
Passed 7th March, 1826.

Subdivision of Northumberland. Whereas from the great extent of the present county of Northumberland, it is necessary and expedient that the same be divided into three counties,

I. Be it therefore enacted by the Lieutenant Governor, Council and Assembly, That, &c. &c. and that *all that other part of the said county of Northumberland which now forms the parishes of Saumarez and Beresford, be, and the same is hereby erected into another county, separate and distinct from the said county of Northumberland, to be called and known by the name of the County of Gloucester.*

IV. And be it further enacted, That the said two new counties shall be, and the same are hereby respectively subdivided into towns or parishes as follows, to wit: &c. &c.

The said county of Gloucester shall be divided into five towns or parishes as follows, to wit: &c. &c.—The third Town or parish to retain the name of *Beresford*, to be formed of that part of the present Parish of Beresford which lies to the eastward of a line drawn through the middle of Benjamin River. The fourth Town or Parish to be called and known by the name of *Addington*, and to be formed of that part of the present parish of Beresford, lying between Benjamin River, and a line drawn through the middle of the River Upsalquitch, including Heron Island, and the other Islands in front. And the fifth Town or Parish to be called and known by the name of *Eldon*, and to comprehend the residue of the said present parish of Beresford.

V. And be it further enacted, That the Town now forming on the Southern side of the entrance of the River Restigouche within the said county of Gloucester shall be called and known by the name of *Dalhousie*.

ACTS

REGULATING THE FISHERIES IN THE RESTIGOUCHE AND ITS BRANCHES.

Appendix.
N. 48.Acts regulating
the Fisheries.

CAP. V.

39 Geo. III.

*An act for regulating the Fisheries in the county of Northumberland.—Passed
5th February, 1799.*

Whereas the laws now in force for regulating the *Fisheries in the county of Northumberland* have been found inadequate to the purposes intended; for remedy whereof

I. Be it enacted, &c. &c.

VIII. And be it further enacted, That *no Salmon shall be taken or killed in any manner whatever in the River Miramichi, or in the River Restigouche, or in any of the branches of the said rivers*, from the thirtieth day August, to the first day of April in every year; nor shall any person purchase any fish so killed or taken, *under the penalty of five shillings* for each fish, so killed, taken or purchased, to be recovered before any of His Majesty's Justices of the Peace, *for the county of Northumberland.*

CAP. XIX.

45 Geo. III.

*An act to continue sundry acts of the General Assembly that are near expiring.
Passed 5th March, 1805.*

Be it enacted by the President, Council, and Assembly, That an act passed in the thirty-ninth year of his Majesty's reign, intituled, "an act for regulating the Fisheries in the county of Northumberland," &c. &c. be further continued; and the said acts and every clause matter and thing therein contained, are hereby continued and declared to be in full force, until the first day of March, which will be in the year of our Lord, one thousand eight hundred and ten.

CAP. IV.

50 Geo. III.

An act to continue for a limited time an act passed in the thirty-ninth year of His Majesty's Reign, intituled "an act for regulating the Fisheries in the county of Northumberland." Passed 14th March, 1810.

Be it enacted by the President, Council and Assembly, That an act made and passed in the thirty-ninth year of His Majesty's Reign, intituled "an act for regulating the Fisheries in the county of Northumberland," be continued, and the said act and every clause, matter and thing therein contained, is hereby continued and declared to be in full force for ten years, and from thence to the end of the then next session of the general assembly and no longer.

CAP. IV.

60 Geo. III.

An act to make perpetual several acts of the General Assembly that are near expiring. Passed 20th March, 1820.

Be it enacted by the Lieutenant Governor, Council and Assembly, That an act made and passed in the thirty-ninth year of His Majesty's Reign, intituled "an act for regulating the fisheries in the county of Northumberland," &c. &c. be, and the same acts are hereby declared to be continued and in full force for three years, and thence to the end of the then next session of the General Assembly.

CAP. XXIII.

Appendix.
No. 48.

Acts regulating
the Fisheries
4 Geo. IV.

An act in further amendment of the Laws for regulating the Fisheries in the county of Northumberland. Passed 27th March, 1823.

Whereas the provisions and penalties in an act made and passed in the thirty-ninth year of the Reign of His late Majesty King George the third, intituled "an act for regulating the Fisheries in the county of Northumberland," have been found ineffectual,

I. Be it therefore enacted, &c. [making some alterations not touching the 8th Section, nor the river Restigouche or its branches.]

III. And be it further enacted, That *the said herein before recited acts*, excepting wherein the same are hereby altered and amended, together with this act, *shall continue and be in force five years*, and thence to the end of the next session of the General Assembly.

ACTS
ESTABLISHING ROADS OF COMMUNICATION THROUGH THE PROVINCE.

CAP. XXII.

36 Geo. III.

An act for the establishment, regulation, and improvement of the great Roads of communication through the province. Passed 11th March, 1816.

Whereas it is expedient that a more effectual system should be established for the regulation and improvement of the Great Roads leading through the province,

I. Be it therefore enacted by the President, Council and Assembly, That the Roads as herein described, be, and they are hereby appointed and established to be the Great Roads of communication through the province, that is to say, &c. &c

That the Road leading from Fredericton to the Canada line be by the following line or route; that is to say,

From Fredericton upon the west side of the River St. John to John Kelly's, thence to cross the River to Michael McNelly's, thence to Joseph Wolverton's in the parish of Northampton, thence across the River Saint John to Mr. Frazer's lower Farm in Woodstock, thence to the Garrison at Presque Isle, thence across the larger Presque Isle Creek near the mouth of the River Roostock, thence across the said river near the mouth, thence to the Grand Falls, and from thence to the Canada line through the Madawaska settlement.

VI. And be it further enacted, That there be allowed and paid out of the Province Treasury the following sums of Money, that is to say, &c. &c.

To the said George D. Berton, Thomas C. Lee and Daniel Morehouse, the sum of three thousand pounds, towards improving and repairing the public Road leading from Fredericton to the Canada line, and for building and repairing bridges upon the same.

CAP. XI.

37 Geo. III.

An act to appropriate a part of the public Revenue for the services therein mentioned. Passed 23d March, 1817.

Be it enacted by the President, Council and Assembly, That there be allowed and paid out of the Treasury of the province, unto the several persons hereafter mentioned, the following sums, to wit: &c. &c.

To His Honor the President the sum of eleven hundred and fifty pounds for the further improving that part of the Great Road of communication leading from Fredericton to the Canada line.

Appendix.
No. 48.

Acts of New
Brunswick.

CAP. XVI.

An act to provide for opening and repairing Roads and erecting Bridges throughout the Province, and improving the navigation of certain Rivers therein. Passed 25th March, 1820.

60 Geo. III

Be it enacted by the Lieutenant Governor, Council and Assembly, That there be allowed and paid out of the Treasury of this Province, to such person or persons as His Excellency the Lieutenant Governor or Commander in Chief for the time being shall appoint, in addition to the sums already granted by law, and remaining unexpended, the following sums for the purposes hereafter mentioned, that is to say, &c. &c.

The sum of one hundred and seventy five pounds, to explore, lay out, and open a road from the river Nepisigwit to the River Restigouche, &c. &c.

The sum of fifty pounds, for making a towing path and removing rocks between Presque Isle and the Restook river.

The sum of one hundred and fifty pounds for removing rocks and making towing paths from Restook river to the Grand Falls.

CAP. XXXI.

An act to repeal all the laws now in force relating to the establishment, regulation, and improvement of the Great Roads of communication through the Province, and to make more effectual provision for the same. Passed 21st March, 1822.

3 Geo. IV

II. And be it further enacted, &c. &c. That the roads as herein described, be, and they are hereby appointed and established to be the great roads of communication through the province, that is to say, &c. &c.—That the road leading from Fredericton to the Canada line, be by the following line or route, that is to say; From the Market house in Fredericton, &c. &c. &c.—to Mr. Fraser's lower farm, in Woodstock, thence to the garrison at Presque Isle, thence across the larger Presque Isle Creek, near the mouth, to the river Roostock, thence across the said river near its mouth, thence to the Grand Falls, and from thence to the Canada line.

That the road leading from Fredericton to Ristigouche in Northumberland, be by the following line or route, that is to say; From Fredericton across the ferry, &c. &c. &c. to the Court House in New Castle, thence to the River Nipisigwit, thence along the settlements on the coast of Chaleur Bay to the River Ristigouche, &c. &c.

III. And be it further enacted, That all the before mentioned public roads shall be laid out four rods wide, and be opened and worked of such width as the supervisors in their respective districts shall in their discretion deem necessary.

CAP. XXXII.

An act to appropriate a part of the public Revenue for the services therein mentioned. Passed 27th March, 1823.

4 Geo. IV

Be it enacted by the Lieutenant Governor, Council and Assembly, That there be allowed and paid out of the Treasury of this Province, the following sums, to wit, &c. &c.

Appendix. To Daniel Morehouse late Supervisor, for the great road of communication from
 No. 48. Fredericton to Canada line, the sum of one pound five shillings and ten pence, a bal-
 ance due him.

Acts of New
 Brunswick

CAP. XXVIII.

*An act to provide for opening and repairing Roads and erecting Bridges through-
 out the province. Passed 19th March, 1827.*

Be it enacted by the Lieutenant Governor, Council and Assembly, That there be
 allowed and paid out of the Treasury of this Province to such person or persons as
 His Excellency the Lieutenant Governor, or Commander in Chief for the time being,
 shall appoint, in addition to sums already granted, the following sums for the purposes
 hereinafter mentioned, that is to say,

The sum of six hundred and fifty pounds, for the Great Road from Fredericton to
 the Canada line, &c.

The sum of seven hundred and fifty pounds for the Great Road from Fredericton to
 Restigouche.

APPENDIX, No. XLIX.

DEPOSITIONS

OF

CERTAIN INHABITANTS OF MADAWASKA,

CONCERNING

THE BOUNDARY OF CANADA;

AND OF

JOHN G. DEANE, CONCERNING THE SAID BOUNDARY, AND THE TENURE OF CERTAIN
LANDS ON TEMISCOUATA LAKE.

ENOCH LINCOLN,
Governor of the State of Maine.

TO ALL WHO SHALL SEE THESE PRESENTS, GREETING:

[L. S.]

ENOCH LINCOLN.

Know ye, that John G. Deane, Esq. of Ellsworth, in our County of Hancock, whose name is borne on the papers hereunto annexed, is a Notary Public, duly nominated and appointed, commissioned and qualified; and that to his Acts and Attestations as such, full faith and credit are and ought to be given in and out of Court.

In testimony whereof, I have caused the Seal of the State to be hereunto affixed. Given under my hand at Portland, this sixth day of December, in the year of our Lord one thousand eight hundred and twenty-eight, and in the fifty-third year of the Independence of the United States of America.

By the Governor:

A. NICHOLS, *Secretary of State.*

Appendix.
No. 49.

Depositions concerning the boundary of Canada and certain lands on lake Temiscouata.

Depositions of certain inhabitants of Madawaska.

State of Maine:

Be it remembered, that on this thirteenth day of November, in the year of our Lord one thousand eight hundred and twenty-eight, before me John G. Deane, Esq. Notary Public by lawful authority duly authorized, commissioned, and sworn, personally appeared *Captain Fearner Thibideau, of Madawaska*, who, after being first duly cautioned and sworn upon the Holy Evangelists to testify the truth, the whole truth, and nothing but the truth, testifies, declares and says; that *he is aged fifty-nine years and upwards; was born in the Province of New Brunswick, and when he was nineteen years old his father moved with his family to Madawaska, where the deponent has lived ever since.*

Appendix.
No. 49.

Depositions con-
cerning the bound-
ary of Canada
and certain lands
on lake Temiscou-
ata.

Depositions of cer-
tain inhabitants of
Madawaska.

He is well acquainted with the *Grand Portage*, and has crossed it several times to Canada, and has always understood that *St. Francis' Mountain*, or some place upon it, was considered the line of Canada, and that fugitives from justice from either side were considered safe from arrest when they had crossed it. He has understood the line to be at a post which was on *St. Francis' Mountain*, about half way across the portage. Some years ago his neighbours, as he understood, were employed by the government of New Brunswick to work on the *Grand Portage*.

He is now a *Captain of Militia*, and holds his Commission under the Government of New Brunswick.

In testimony of the truth of his aforesaid declarations, he now hereunto sets his hand and makes his cross.

his
FEARMER x THIBIDEAU.
cross.

In testimony whereof, I the said Notary, have hereunto subscribed my
[L. S.] name and affixed my Notarial Seal.

JOHN G. DEANE,
Notary Public.

State of Maine:

Be it remembered, that on this thirteenth day of November, in the year of our Lord one thousand eight hundred and twenty-eight, before me John G. Deane, Esq. Notary Public, by lawful authority duly authorized, commissioned and sworn, personally appeared *Jeremiah Dubie*, of *Madawaska*, who, after being duly cautioned and sworn upon the holy Evangelists to testify the truth, the whole truth, and nothing but the truth, testifies, declares and says; that he is sixty years of age and upwards; was born in *Camarouska* in Canada, and moved to *Madawaska* thirty-four years ago.

Between twenty-five and thirty years ago, he, with thirteen or fourteen others from *Madawaska*, worked on the *Grand Portage*, repairing the road from *Temiscouata* Lake, to beyond the *Grand Fourche*, where they met the party from Canada; they erected a post and marked it, but the marks he does not recollect. Mr. Francis Martin superintended the work, and they were employed, supplied, and paid by the Province of New Brunswick. Mr. Martin is dead: four of his sons, some by the name of Herbert, Mr. Foursin and others, worked on the road.

He has always understood, that the *St. Francis*, or some place upon the mountain, was the line of Canada; and that such as fled for debt from either Province were free from arrest as soon as they passed it.

In testimony of the truth of his aforesaid declarations, he now hereunto affixes his hand and makes his cross.

his
JEREMIAH x DUBIE.
cross.

In testimony whereof, I the said Notary have hereunto subscribed my
[L. S.] name and affixed my Notarial Seal.

JOHN G. DEANE,
Notary Public.

State of Maine:

Be it remembered, that on this twelfth day of November, in the year of our Lord one thousand eight hundred and twenty-eight, before me John G. Deane, Esquire, Notary Public, by lawful authority duly authorized, commissioned and sworn, personally appeared *Fearmer* of *Madawaska*, who, after being first duly cautioned and sworn

To His Honor the President the sum of eleven hundred and fifty pounds for the further improving that part of the Great Road of communication leading from Fredericton to the Canada line. *Appendix.*
No. 48.

Acts of New Brunswick.

CAP. XVI.

An act to provide for opening and repairing Roads and erecting Bridges throughout the Province, and improving the navigation of certain Rivers therein. 60 Geo. III.
Passed 25th March, 1820.

Be it enacted by the Lieutenant Governor, Council and Assembly, That there be allowed and paid out of the Treasury of this Province, to such person or persons as His Excellency the Lieutenant Governor or Commander in Chief for the time being shall appoint, in addition to the sums already granted by law, and remaining unexpended, the following sums for the purposes hereafter mentioned, that is to say, &c. &c.

. The sum of one hundred and seventy five pounds, to explore, lay out, and open a road from the river Nepisigwit to the River Restigouche, &c. &c.

. The sum of fifty pounds, for making a towing path and removing rocks between Presque Isle and the Restook river.

The sum of one hundred and fifty pounds for removing rocks and making towing paths from Restook river to the Grand Falls.

CAP. XXXI.

An act to repeal all the laws now in force relating to the establishment, regulation, and improvement of the Great Roads of communication through the Province, and to make more effectual provision for the same. 3 Geo. IV.
Passed 21st March, 1822.

* * * * *

II. And be it further enacted, &c. &c. That the roads as herein described, be, and they are hereby appointed and established to be the great roads of communication through the province, that is to say, &c. &c.—That the road leading from Fredericton to the Canada line, be by the following line or route, that is to say; From the Market house in Fredericton, &c. &c. &c.—to Mr. Fraser's lower farm, in Woodstock, thence to the garrison at Presque Isle, thence across the larger Presque Isle Creek, near the mouth, to the river Roostock, thence across the said river near its mouth, thence to the Grand Falls, and from thence to the Canada line.

That the road leading from Fredericton to Ristigouche in Northumberland, be by the following line or route, that is to say; From Fredericton across the ferry, &c. &c. &c. to the Court House in New Castle, thence to the River Nipisigwit, thence along the settlements on the coast of Chaleur Bay to the River Ristigouche, &c. &c.

III. And be it further enacted, That all the before mentioned public roads shall be laid out four rods wide, and be opened and worked of such width as the supervisors in their respective districts shall in their discretion deem necessary.

CAP. XXXII.

An act to appropriate a part of the public Revenue for the services therein mentioned. 4 Geo. IV.
Passed 27th March, 1823.

Be it enacted by the Lieutenant Governor, Council and Assembly, That there be allowed and paid out of the Treasury of this Province, the following sums, to wit, &c. &c.

Appendix. To Daniel Morehouse late Supervisor, for the great road of communication from
 No. 48. Fredericton to Canada line, the sum of one pound five shillings and ten pence, a bal-
 ance due him.

ELIZABETH

CAP. XXVIII.

*In act to provide for opening and repairing Roads and erecting Bridges through-
 out the province. Passed 19th March, 1827.*

§ 1. Be it enacted by the Lieutenant Governor, Council and Assembly, That there be
 allowed and paid out of the Treasury of this Province to such person or persons as
 His Excellency the Lieutenant Governor, or Commander in Chief for the time being,
 shall appoint, in addition to sums already granted, the following sums for the purposes
 hereinafter mentioned, that is to say,

The sum of six hundred and fifty pounds, for the Great Road from Fredericton to
 the Canada line, &c.

The sum of seven hundred and fifty pounds for the Great Road from Fredericton to
 Restigouche.

APPENDIX, No. XLIX.

DEPOSITIONS

OF

CERTAIN INHABITANTS OF MADAWASKA.

CONCERNING

THE BOUNDARY OF CANADA;

AND OF

JOHN G. DEANE, CONCERNING THE SAID BOUNDARY, AND THE TENURE OF CERTAIN
LANDS ON TEMISCOUATA LAKE.

ENOCH LINCOLN,
Governor of the State of Maine.

TO ALL WHO SHALL SEE THESE PRESENTS, GREETING:

[L. S.]

ENOCH LINCOLN.

Know ye, that John G. Deane, Esq. of Ellsworth, in our County of Hancock, whose name is borne on the papers hereunto annexed, is a Notary Public, duly nominated and appointed, commissioned and qualified; and that to his Acts and Attestations as such, full faith and credit are and ought to be given in and out of Court.

In testimony whereof, I have caused the Seal of the State to be hereunto affixed. Given under my hand at Portland, this sixth day of December, in the year of our Lord one thousand eight hundred and twenty-eight, and in the fifty-third year of the Independence of the United States of America.

By the Governor:

A. NICHOLS, *Secretary of State.*

Appendix.
No. 19.

Depositions concerning the boundary of Canada and certain lands on lake Temiscouata.

Depositions of certain inhabitants of Madawaska.

State of Maine:

Be it remembered, that on this thirteenth day of November, in the year of our Lord one thousand eight hundred and twenty-eight, before me John G. Deane, Esq. Notary Public, by lawful authority duly authorized, commissioned, and sworn, personally appeared *Captain Farmer Thibideau, of Madawaska*, who, after being first duly cautioned and sworn upon the Holy Evangelists to testify the truth, the whole truth, and nothing but the truth, testifies, declares and says; that *he is aged fifty-nine years and upwards; was born in the Province of New Brunswick, and when he was nineteen years old his father moved with his family to Madawaska, where the deponent has lived ever since.*

Appendix.
No. 49.

Depositions concerning the boundary of Canada and certain lands on lake Temiscouata.

Depositions of certain inhabitants of Madawaska.

He is well acquainted with the *Grand Portage*, and has crossed it several times to Canada, and has always understood that *St. Francis' Mountain*, or some place upon it, was considered the line of Canada, and that fugitives from justice from either side were considered safe from arrest when they had crossed it. He has understood the line to be at a post which was on *St. Francis' Mountain*, about half way across the portage. Some years ago his neighbours, as he understood, were employed by the government of New Brunswick to work on the *Grand Portage*.

He is now a *Captain of Militia*, and holds his Commission under the Government of New Brunswick.

In testimony of the truth of his aforesaid declarations, he now hereunto sets his hand and makes his cross.

his
FEARMER × THIBIDEAU.
cross.

In testimony whereof, I the said Notary, have hereunto subscribed my
[L. s.] name and affixed my Notarial Seal.

JOHN G. DEANE,
Notary Public.

State of Maine:

Be it remembered, that on this thirteenth day of November, in the year of our Lord one thousand eight hundred and twenty-eight, before me John G. Deane, Esq. Notary Public, by lawful authority duly authorized, commissioned and sworn, personally appeared *Jeremiah Dubie, of Madawaska*, who, after being duly cautioned and sworn upon the holy Evangelists to testify the truth, the whole truth, and nothing but the truth, testifies, declares and says; that he is sixty years of age and upwards; was born in *Camarouska in Canada*, and moved to *Madawaska thirty-four years ago*.

Between twenty-five and thirty years ago, he, with thirteen or fourteen others from *Madawaska*, worked on the *Grand Portage*, repairing the road from *Temiscouata Lake*, to beyond the *Grand Foureche*, where they met the party from *Canada*; they erected a post and marked it, but the marks he does not recollect. Mr. Francis Martin superintended the work, and they were employed, supplied, and paid by the Province of New Brunswick. Mr. Martin is dead: four of his sons, some by the name of Herbert, Mr. Foursin and others, worked on the road.

He has always understood, that the *St. Francis, or some place upon the mountain*, was the line of *Canada*; and that such as fled for debt from either Province were free from arrest as soon as they passed it.

In testimony of the truth of his aforesaid declarations, he now hereunto affixes his hand and makes his cross.

his
JEREMIAH × DUBIE.
cross.

In testimony whereof, I the said Notary have hereunto subscribed my
[L. s.] name and affixed my Notarial Seal.

JOHN G. DEANE,
Notary Public.

State of Maine:

Be it remembered, that on this twelfth day of November, in the year of our Lord one thousand eight hundred and twenty-eight, before me John G. Deane, Esquire, Notary Public, by lawful authority duly authorized, commissioned and sworn, personally appeared *Farmer Herbert, of Madawaska*, who, after being first duly cautioned and sworn

upon the Holy Evangelists to testify and declare the whole truth, and nothing but the truth, testifies, declares and says; that *he is now aged forty-six years and upwards, and went to Madawaska when he was eight years old (thirty eight years ago) with his father and family, where he has resided ever since. He has been to Canada several times across the Grand Portage, and has always heard, ever since he has been old enough to remember any thing, that St. Francis' Mountain, or some place on it, was the line of Canada*, and that those who fled from the one government to the other, were always considered safe from arrest when they had passed it.

Appendix.
No. 49.
Depositions concerning the boundary of Canada and certain lands on Lake Temiscouata.
—
Depositions of certain inhabitants of Madawaska.

Between twenty-five and thirty years ago, as near as he can recollect, fourteen or fifteen men went from Madawaska to work on the Grand Portage, of whom the deponent was one: They worked on the Portage two or three weeks; and worked from Lake Temiscouta until they met the party from Canada; where they *met the party from Canada, a post had been erected*; it was about six feet high. *The party from Canada worked to the post first, and were stopping there when the party from the Lake arrived. The parties separated at the post, and returned. The party from Madawaska were headed and superintended by Francis Martin, of Madawaska, who is now dead; and they received their supplies from, and were paid by the Province of New Brunswick. Michael Martin, Francis Martin, Mr. Dubie, Mr. Fournie, and many others, most of whom are dead, worked on the Grand Portage with him.*

In testimony of the truth of his aforesaid declaration, he now hereunto sets his hand and makes his cross.

his
FEARMER X HEBERT.
cross.

In testimony whereof, I the said Notary have hereunto subscribed my
[L. S.] name and affixed my Notarial Seal.

JOHN G. DEANE,
Notary Public.

State of Maine:

Be it remembered, that on this twelfth day of November, in the year of our Lord one thousand eight hundred and twenty-eight, before me, John G. Deane, Esquire, Notary Public, by lawful authority duly commissioned, authorized and sworn, personally appeared *Michael Martin, of Madawaska*, who after being first duly cautioned and sworn upon the Holy Evangelists, to testify and declare the truth, the whole truth, and nothing but the truth, testifies, declares and says; that *he is aged forty-seven years and upwards; was born at St. Ann's now Fredericton, and thirty-six or thirty-seven years ago his father, Francis Martin, moved to Madawaska with his family, where he lived until his death. He has heard his father and others in Madawaska say the line of Canada was at Mount St. Francis.*

About twenty seven or twenty-eight years ago, as near as he can recollect, his father and others were employed by the Government, or some person acting under the Government of New Brunswick, to work on the Grand Portage, from the Lake Temiscouta to Canada. He, the deponent, worked on the Portage with his father and fourteen or fifteen others. They worked on the Portage from Temiscouta Lake towards Canada, across the Grand Fourche stream, where *they set up a post*; the party at work on the Portage met them here from Canada; *they fired their guns when the post was set up, and afterwards separated; one party returned to Canada and the other to Madawaska.*

His father superintended the work for the Province of New Brunswick, and was paid by the Province. The provisions which they had were brought from the Grand Falls below, on the river St. John.

Appendix.
No. 49.

Depositions concerning the boundary of Canada and certain land on lake Temiscouata.

Depositions of certain inhabitants of Madawaska.

His father has been dead ten years.

In testimony of the truth of his aforesaid declarations, he now hereunto affixes his hand by making his cross.

his
MICHAEL X MARTIN.
cross.

In testimony whereof, I the said Notary have hereunto subscribed my
[L. s.] name, and affixed my Notarial Seal.

JOHN G. DEANE,
Notary Public.

State of Maine:

Be it remembered, that on this twelfth day of November, in the year of our Lord one thousand eight hundred and twenty-eight, before me, John G. Deane, Esquire, Notary Public, by lawful authority duly commissioned, authorized and sworn, personally appeared *Simon Baulier, of Madawaska*, who after being first duly cautioned and sworn upon the Holy Evangelists, to testify and declare the truth, the whole truth, and nothing but the truth, testifies, declares and says; that he is *aged forty-six years and upwards; was born within six miles of the Grand Portage on the St. Lawrence, and when he was aged eight or ten years came to Madawaska*, and lived with Captain Du Pierce, one of the first settlers at Madawaska, and *has resided in Madawaska ever since. He is well acquainted with the Grand Portage, and has passed and repassed it a great many times, and has always heard and understood that Mount St. Francis, between the Grand Fourche stream and the St. Francis River, or some place on the mountain, was the line of Canada. There was a post standing on Mount St. Francis, between the Grand Fourche stream and St. Francis River, to which post the people from Canada repaired the road on the one side, and the people of New Brunswick on the other, as he has understood; if it has not always been so, it has sometimes been so.*

In testimony of the truth of his aforesaid declarations, he now hereunto affixes his hand by making his cross.

his
SIMON X BAULIER.
cross.

In testimony whereof, I the said Notary have hereunto set my hand, and
[L. s.] affixed my Notarial Seal.

JOHN G. DEANE,
Notary Public.

State of Maine:

Be it remembered, that on this twelfth day of November, in the year of our Lord one thousand eight hundred and twenty-eight, before me, John G. Deane, Esquire, Notary Public, by lawful authority duly commissioned and sworn, personally appeared *Joseph Cire, of Madawaska*, who after being first duly cautioned and sworn to testify and declare the truth, the whole truth, and nothing but the truth, upon the Holy Evangelists, testifies, declares and says: he is *aged twenty eight years; was born in and has always resided in Madawaska*, and that he has *crossed and recrossed the Grand Portage many times, and was present on the fourth and fifth days of November, in the year of our Lord one thousand eight hundred and twenty-eight, when Michael Cire shewed John G. Deane, Esquire, the place where a post formerly stood. The place is on the St. Francis' Mountain between the Grand Fourche and St. Francis river, on a ridge or highland twenty or thirty rods south-easterly of a stream called*

Dirty Brook, which runs south-westerly. There is also, near the place, a large rock which is remarkable, on the Grand Portage, differing in size and appearance very much from any other one there. Appendix.
No. 49.

In testimony of the truth of his aforesaid declarations, he does hereunto put his hand and subscribes the same with his cross.

his
JOSEPH X CIRE.

CROSS.

Depositions concerning the boundary of Canada and certain lands on Lake Temiscouata.

Depositions of certain inhabitants of Madawaska.

In testimony whereof, I the said Notary have hereunto subscribed my
[L. s.] name, and affixed my Notarial Seal.

JOHN G. DEANE,
Notary Public.

State of Maine:

Be it remembered, that on this eleventh day of November, in the year of our Lord one thousand eight hundred and twenty-eight, before me, John G. Deane, Esquire, Notary Public, by lawful authority duly commissioned, authorized and sworn, personally appeared *Michael Cire, of Madawaska*, who, being first duly sworn upon the Holy Evangelists, to testify the truth, the whole truth, and nothing but the truth, testifies, declares and says; that *he is sixty-two years of age and upwards*; was born on Sugar Island near Fredericton, and removed with his father before he was twenty-one years of age to the place where he now dwells; since residing in Madawaska he has crossed the Grand Portage from Lake Temiscouta to Canada nearly every year, and some years several times, and has always understood, and it has always been so understood at Madawaska, that *Mount St. Francis, or some place on that Mountain, was the line of Canada*. The Mount lies between the Grand Fourche and St. Francis rivers, and divides their waters.

Upon the ascent of the mount from the Grand Fourche, and only one or two hundred feet lower than the summit, there is a stream flowing south-westerly called Dirty Brook, on account of the bad quality of the water, within twenty or thirty rods of which on the highland south-easterly of it, and also near a remarkable rock, one differing much in size and appearance from any rock on the road, which he shewed John G. Deane, aforesaid, *the place where a post formerly stood*, but which has decayed or has been otherwise destroyed, as he has not seen it for a few years last past. There were marks on the post, but did not know what they meant.

In testimony of the truth of his aforesaid declarations, he hereunto affixes his hand by his cross.

his
MICHAEL X CIRE.

CROSS.

In testimony whereof, I the said Notary have hereunto subscribed my
[L. s.] name, and affixed my Notarial Seal.

JOHN G. DEANE,
Notary Public.

State of Maine:

Be it remembered, that on this tenth day of November, in the year of our Lord one thousand eight hundred and twenty-eight, before me John G. Deane, Esquire, Notary Public, by lawful authority duly commissioned, authorized and sworn, personally appeared *Paulite Marchee, of Madawaska*, who, after being duly cautioned and sworn upon the Holy Evangelists, to testify the truth, the whole truth, and nothing but the truth, testifies, declares and says; that he is *now aged seventy years and upwards*; was born in St. Andre in Canada, near where the Grand Portage com-

Appendix.
No. 49.

Depositions con-
cerning the bound-
ary of Canada
and certain lands
on Lake Temiscou-
ata.

Depositions of cer-
tain inhabitants of
Madawaska.

menues on the *St. Lawrence*, and moved to *Madawaska*, the place where he now dwells, twenty years ago. He crossed the Grand Portage thirty-six years ago, and has since that time crossed and recrossed it thirty times and upwards. He has not crossed the Portage the last seven years. The *Mount St. Francis*, or some place on or about it, has always been considered and understood to be the line of Canada. It lies and runs north-easterly and south-westerly between the Grand Fourche and St. Francis River. On the south-eastern side of Mount St. Francis, after you ascend some distance from the Grand Fourche stream, there is a stream called Dirty Brook, which flows into one of the Lakes of the St. Francis River. On the south-westerly side of the Portage road, and twenty or thirty rods south-easterly of the brook, there was a post which was always called the half-way post on the Portage. From the land on which this post stands, the waters flow on the one hand into the Grand Fourche, and *Trois Pistoles*, and into the river *St. Lawrence*; and on the other hand into the River *St. Francis*, and through it into the river *St. John*. The land thus dividing the waters of the *St. Lawrence* from the waters of the *St. John*, was always understood by us to be the line of Canada. Such has always been the understanding so long as he can remember.

In testimony of the truth of his declarations above written, he has hereunto made his cross, and requested the said Notary to write his name.

his
PAULITE X MARCHEE.
mark.

In testimony whereof, I the said Notary have hereunto subscribed my
L. s.] name, and affixed my Notarial Seal.

JOHN G. DEANE,
Notary Public.

State of Maine:

Be it remembered, that on this tenth day of November, in the year of our Lord one thousand eight hundred and twenty-eight, before me John G. Deane, Esquire, Notary Public, by lawful authority duly commissioned and sworn, personally appeared *Jean Baptiste Lang*, now resident in the *Madawaska* settlement, near the Catholic Chapel in the Parish of St. Emilie, and being first duly cautioned and sworn upon the Holy Evangelists, to testify and declare the truth, the whole truth, and nothing but the truth, testifies, declares and says; that he is now thirty-one years of age and upwards; was born at the river De Loup which crosses the Grand Portage, and twenty years ago his father brought him with the residue of his family to the Lake Temiscouta, and settled at the place where the Grand Portage commences. He resided at that place nineteen years, and in the autumn of the year one thousand eight hundred and twenty-seven, moved to the place where he now resides.

Ever since he was old enough to cross the Grand Portage, he has crossed it from one to six times a year, and perfectly recollects the cedar post, which he was always told was the line of Canada; it was six feet high or thereabouts, hewed on the four sides; the side next to the Portage road, and side next to Canada, were marked or written over, from top to bottom; the other sides were not marked; he did not understand the marks; the post stood on the south-westerly side of the Portage road, between the Grand Fourche stream and the peak or top of Mount St. Francis; on high and elevated land, within a few rods of the post, and on the north-westerly side of it, there is a stream or large brook which flows into the St. Francis River, which he has descended to that river, and the Grand Fourche flows into the *Trois Pistoles*. On the side of the Portage, and nearly opposite to the place where the post stood.

is a large rock, larger than any other one on the Portage; its appearance is also different from any other he ever saw in those parts. *The elevated land on which the post stood divides waters which flow either way, one into the Grand Fourche, and the other into the St. Francis river.*

He further testifies, declares and says; that *four years ago last August*, when going from the Lake Temiscouta to Canada, about the middle of the afternoon, he *saw that the aforesaid post was cut down, and was put on a fire which was then burning; the post on the fire contained the marks* which he has before mentioned, and they were *not then entirely consumed*; he saw some of them; *he took it from the fire, and extinguished the fire upon it, and set it by the side of the road.* He passed again in about one month, and the post he had saved from the fire was gone, and what became of it he does not know. He does not know who cut down the post, but supposes it was cut down by persons who were crossing the Portage.

In testimony of the truth of his declarations above written, he now hereunto sets his hand by his cross, being unable to write his name, and requests the said Notary to write his name at length.

his
JEAN BAPTISTE+LONG.
mark.

In testimony whereof, I the said Notary have hereunto subscribed my
[L. s.] name, and affixed my Notarial Seal.

JOHN G. DEANE,
Notary Public.

State of Maine:

Be it remembered, that on this eighth day of November, in the year of our Lord one thousand eight hundred and twenty-eight, before me, John G. Deane, Esquire, Notary Public, by lawful authority duly authorized, commissioned and sworn, personally appeared *Raphael Michaud*, of the Parish of St. Emile, being the upper parish in the *Madawaska* settlement; and first being duly cautioned and sworn upon the Holy Evangelists, to testify and declare the truth, the whole truth, and nothing but the truth, testifies, declares and says; that *he is twenty-seven years of age and upwards*; and that twelve years ago, or thereabouts, he travelled over the Grand Portage from Temiscouta Lake to Canada. While travelling from the river St. Francis to the River Verde or Green River, *he saw fourteen or fifteen men from Canada at work on the Grand Portage, repairing the road, and was told by them that a cedar post, squared, and standing on the westerly, or south-westerly side, of the road, about half way between the peak or top of Mount St. Francis and St. Francis river, something more than one-sixth of a league south-easterly from said river, was the line of Canada.* The post had many marks upon it, which he did not understand, nor does he remember. Since that time he has passed the Grand Portage nearly every year. The last time he saw the post, was five years since; and although he has since passed and repassed the Portage twice, has not seen the post, and supposes the post has been destroyed by accident or design.

He has also *always understood from the inhabitants of Madawaska*, that the aforesaid post was the line of Canada. He has passed the Portage with others from Madawaska, much older than himself, who have shewed him the same for the line of Canada, and as the place where it was generally understood to be.

In testimony of the truth of his declarations above written, he now hereunto subscribes his name.

RAPHAEL MICHAUD.

In testimony whereof, I the said Notary have hereunto subscribed my
[L. s.] name, and affixed my Notarial Seal.

JOHN G. DEANE,
Notary Public.

Appendix.
No. 49.

DEPOSITION

OF JOHN G. DEANE, TOUCHING THE BOUNDARY OF CANADA.

Depositions concerning the boundary of Canada and certain lands on Lake Temiscouata.

ENOCH LINCOLN,

Governor of the State of Maine.

Deposition of John G. Deane, touching the boundary of Canada.

TO ALL WHO SHALL SEE THESE PRESENTS, GREETING:

Know ye, that the Honorable Prentiss Mellen, of Portland, in our Cumberland, whose name is borne on the paper hereunto annexed, is Chief Justice of our Supreme Judicial Court for the said State of Maine; duly nominated and appointed, commissioned and qualified; and that to his acts and attestations, as such, full faith and credit are and ought to be given, in and out of Court.

[L. s.]

ENOCH LINCOLN.

In testimony whereof, I have caused the Seal of the State to be hereunto affixed. Given under my hand at Portland, this sixth day of December, in the year of our Lord one thousand eight hundred and twenty-eight, and in the fifty-third year of the Independence of the United States of America.

By the Governor:

A. NICHOLS,

Secretary of State.

I, *John G. Deane*, of the State of Maine, depose and say; that pursuant to instructions from the Hon. William P. Preble, one of the Agents of the United States for settling the north-eastern boundary of the United States, *I proceeded to Madawaska*, where I arrived on the thirty-first day of October last; and that on that and many of the following days, *I held conversations with many of the oldest and principal inhabitants of that settlement*; and to my inquiries "*Where has the boundary of Canada been always considered to be?*" have been uniformly answered "*St. Francis*;" and to my explanatory question to ascertain whether they meant *St. Francis River or Mountain*, the explanation has been "*the Mountain*," or some place upon it, at the head of the streams. And to my explanatory question to ascertain the mountain they meant by *St. Francis*, I have been answered that they meant the mountain between the Grand Fourche and *St. Francis River*: and to my question—"Where do these Rivers empty themselves?" the answers have been "*The Grand Fourche runs into the Trois Pistoles, and the St. Francis into the River St. John.*" Some went much further, and were more definite in their answers, and pointed out the exact spot upon the *St. Francis Mountain* where a post formerly stood on the portage, which they understood to be the boundary of Canada. This spot I visited in company with Michael Cire and Joseph Cire. The place where the post stood is exactly upon the ridge or highland which separates the waters which flow into the Grand Fourche and the waters which flow into the *St. Francis*; and, as near as I could judge from walking over the ground, the waters of the respective streams are not more than half a mile asunder. At the place where the post was described to have stood, there is a rock, peculiar for its size and appearance, differing very much from any other I saw elsewhere on the Grand Portage. Most of the persons further stated voluntarily, without the question being proposed by me, that fugitives from Canada were considered free from arrest, when they had passed the *St. Francis*.

JOHN G. DEANE.

Be it remembered, that on this sixth day of December, in the year of our Lord one thousand eight hundred and twenty-eight, the above named John G. Deane personally appeared before me, the subscriber, Chief Justice of the Supreme Judicial Court of

the State of Maine, and made solemn oath according to the laws of this State, that the facts stated in the foregoing deposition by him subscribed, are true; which deposition I have taken at the request of Hon. William P. Preble, one of the Agents of the United States for settling the north-eastern boundary of the United States.

[L. s.]

PRENTISS MELLEN.

Appendix.
No. 49.Deposition con-
cerning the bound-
ary of Canada
and certain lands
on Lake Temiscou-
ata.Deposition of John
G. Deane, touching
the tenure of lands
on Lake Temiscou-
ata.**DEPOSITION**

OF JOHN G. DEANE, TOUCHING THE TENURE OF CERTAIN LANDS NEAR THE
GRAND PORTAGE, ON TEMISCOUATA LAKE.

ENOCH LINCOLN,

Governor of the State of Maine.

TO ALL WHO SHALL SEE THESE PRESENTS, GREETING:

Know ye, that Joshua W. Hathaway, Esq., of Ellsworth, in our County of Hancock, whose signature is borne on the paper hereunto annexed, is a Justice of the Peace within and for our County of Hancock, aforesaid, in the said State of Maine, duly

[L. s.]

ENOCH LINCOLN.

nominated and appointed, commissioned and qualified; and that to his acts and attestations, as such, full faith and credit are and ought to be given, in and out of Court.

In testimony whereof, I have caused the Seal of the State to be hereunto affixed. Given under my hand at Portland, this thirtieth day of December, in the year of our Lord one thousand eight hundred and twenty-eight, and in the fifty-third year of the Independence of the United States of America.

By the Governor:

A. NICHOLS,

Secretary of State.

I, John G. Deane, Esq., of lawful age, do depose, having first been duly cautioned and sworn on the Holy Evangelists of Almighty God to tell the truth, the whole truth, and nothing but the truth, do testify and say; that being at the Grand Portage leading from Temiscouata Lake to the River St. Lawrence, in the month of November last, under the authority of the United States, for the purpose of ascertaining certain facts, I there had a conversation with Col. Alexander Frazier, who resides at the Grand Portage on Temiscouata Lake, and claims to be the owner of a Seignorie there. He informed me that his title deeds were at Quebec; that his seignorie embraced a territory six miles all around the Lake; that his title was derived through sundry conveyances from the French Government, before the cession of Canada; that while possessed by the French grantee, homage had been done three times at the Castle of St. Louis, according to the terms of the grant; that Dansville, a French officer, whether the original grantee or not he could not say, but the owner of it at the time of the conquest, sold this, with all his seignories in Canada, to Governor Murray, the first English Governor of Quebec; Governor Murray sold them to Calwell, and Calwell bargained them to his father; and he, the present occupant, finally became the purchaser of this and some seignories on the River Du Loup

JOHN G. DEANE.

Appendix. State of Maine:

No. 49.

HANCOCK, ss.

Depositions con-
cerning the bound-
ary of Canada
and certain lands
on Lake Umbagog
State.

Deposition of John
G. Deane, touching
the tenure of lands
on Lake Umbagog
State.

Be it remembered, that on this twenty-ninth day of December, in the year of our Lord one thousand eight hundred and twenty-eight, the above named John G. Deane, Esq. personally appeared before me, the subscriber, a Justice of the Peace within and for the County of Hancock, duly authorized by law to administer oaths and take affidavits, and made solemn oath, according to the laws of this State, that the facts stated in the foregoing deposition by him subscribed are true; which deposition I have taken at the request of the Agents of the United States for settling the north-eastern boundary of said States

JOSHUA W. HATHAWAY,
Justice of the Peace

APPENDIX, No. L.

EXTRACT

FROM THE

CENSUS OF THE UNITED STATES.

FOR THE

DISTRICT OF MAINE, IN 1820.

Extract from the Census of A. D. 1820.

The number of Persons within my Division, consisting of 1,256, appears in a *Appendix*.
Schedule hereto annexed, subscribed by me, this second day of October, in the year No. 50.
one thousand eight hundred and twenty.

TRUE BRADBURY,
Assistant to the Marshal.

EXTRACT from the
Census of the
State of 1820

SCHEDULE

Of the whole number of Persons within the Division allotted to True Bradbury.

| Name of the County, Parish, Township, Town, or City, where the Family resides. | Names of Heads of Families. | Free White Males. | | | | | | | Free White Females. | | | | |
|---|--------------------------------|-----------------------------------|--|--|--|---|--|--|--|---|---|--|---|
| | | Foreigners not naturalized. | | | | | | | | | | | |
| | | Free White Males under ten years. | Free White Males of ten and under sixteen. | Free White Males between sixteen and eighteen. | Free White Males of sixteen and under twenty-six, including heads of families. | Free White Males of twenty-six and under forty-five, including heads of families. | Free White Males of forty-five and upwards, including heads of families. | Free White Females under ten years of age. | Free White Females of ten and under sixteen. | Free White Females, of sixteen and under twenty-six, including heads of families. | Free White Females of twenty-six and under forty-five, including heads of families. | Free White Females of forty-five and upwards, including heads of families. | |
| | | to 10 | 10 to 16 | 16 to 18 | 16 to 26 | 26 to 45 | 45, &c | to 10 | 10 to 16 | 16 to 26 | 26 to 45 | 45, &c | |
| Holton Plantation. | Samuel Kook . . . | 2 | 2 | | | | 1 | 1 | 2 | | 1 | | |
| | William Williams . . | 4 | | | 1 | 1 | | 2 | 2 | | 1 | | |
| | Joseph Holton . . . | | | | 2 | 1 | 1 | | | 1 | | | 1 |
| | James Holton . . . | 3 | | | 1 | 1 | | 1 | 1 | | 1 | | |
| | Samuel Holton . . . | | | | 1 | 1 | | 1 | | 1 | | | |
| | Samuel Kendall . . . | | | | 1 | 1 | 2 | | 2 | | | | 1 |
| | Ebenezer Pickard . . | 2 | | | 4 | 1 | | 3 | | | 1 | | |
| | Ebenezer Warner . . | 2 | | | 1 | 1 | | 2 | | | 1 | | |
| | Micajah Morrell . . | | | 1 | 1 | 1 | | | | | 1 | | |
| | James Taylor . . . | 2 | | | 1 | 1 | | | | 1 | | | |
| | Amos Putnam . . . | 1 | | | 1 | 1 | | | | 1 | | | |
| | Jacob Harrow . . . | | | | 1 | 1 | | | | | | | |
| | Edmund Core . . . | | | | 1 | | | | | | | | |
| | Thomas Osbon . . . | | | | | 1 | 1 | | | | | | |
| | Joshua Putnam . . . | 2 | 2 | | 2 | | 1 | 1 | | 3 | 1 | | |

SCHEDULE—continued.

Appendix.
No. 50.

Extract from the
Census of the U.
States of 1820.

| Name of the County, Parish, Township, Town, or City, where the family resides. | Names of Heads of Families. | Free White Males. | | | | | | | Free White Females. | | | | |
|---|--------------------------------|------------------------------------|-----------------------------------|--|--|--|---|--|--|--|--|---|--|
| | | For ignores not naturalized. | Free White Males under ten years. | Free White Males of ten and under sixteen. | Free White Males between sixteen and eighteen. | Free White Males of sixteen and under twenty-six, including heads of families. | Free White Males of twenty-six and under forty-five, including heads of families. | Free White Males of forty-five and upwards, including heads of families. | Free White Females under ten years of age. | Free White Females of ten and under sixteen. | Free White Females of sixteen and under twenty-six, including heads of families. | Free White Females of twenty-six and under forty-five, including heads of families. | Free White Females of forty-five and upwards, including heads of families. |
| | | to 10 | to 16 | to 16 | to 18 | to 20 | to 45 | 45 &c. | to 10 | to 16 | to 20 | to 45 | 45 &c. |
| Horton Plantation. | Amos Peirce . . | | | | | 1 | 1 | | | | | | |
| | Abraham Pierce . | | 1 | 1 | | 1 | 1 | | 3 | | | 1 | |
| | Eleazer Packard . | | 1 | 1 | 1 | 1 | | 1 | | | | 1 | 1 |
| | Aaron Putnam . . | | 1 | | | | | | | | | | |
| | Lewis Wright . . | 1 | 1 | | | | 1 | | 3 | | | 1 | |
| | Joshua G. Kendall | | | | | 1 | 1 | | | | | | |
| | George Hart . . | 1 | | | | | | | 2 | | 2 | | |
| | Total . . | 2 | 21 | 6 | 2 | 20 | 14 | 7 | 19 | 7 | 9 | 9 | 3 |
| New-Limerick Plantation. | Samuel Morrison . | | 1 | | 1 | 1 | | 1 | | 1 | | | 1 |
| | Joseph Goodenouf | | 1 | | | | 1 | | | | 1 | | |
| | Stephen Morrison | | | | | 1 | | | | | | | |
| | Samuel Morrison, Jr. | | 2 | | | | 1 | | 2 | | 1 | | |
| | Isaiah Morrison . | | 2 | | | | 1 | | 3 | 1 | 1 | | |
| | Edmund Webber . | | | | | 1 | | | | | 1 | | |
| | Moses K. Wells . | | | | | | 1 | | | | | | |
| | Samuel Drew . . | | | | | 1 | | | | | | | |
| | Total . . | | 6 | | 1 | 4 | 4 | 1 | 5 | 2 | 4 | | 1 |
| French Settlement. | Francis Violet . . | 1 | 2 | 2 | | | 1 | | 1 | 2 | | 1 | |
| | Alevey Tibedore . | | 3 | 2 | | 1 | | | 1 | | | 1 | |
| | Joseph Markure . | 1 | | | | | 1 | | | | | | |
| | Henry Turdey . . | 1 | 3 | | | | 1 | | 2 | | | 1 | |
| | Lewis Willet . . | 1 | | 3 | | 3 | 3 | 1 | 1 | 2 | | 1 | |
| | Joseph Somphisaw | 1 | 2 | | | | 1 | | 1 | | | 1 | |
| | Susan Tibedore . | | 2 | 3 | 1 | 1 | 1 | | 1 | 1 | | 1 | |
| | Jeremiah Dubey . | 1 | 1 | 2 | 2 | 2 | | 1 | 2 | 2 | 1 | | |
| | Loron Sear . . . | 1 | 1 | | | 2 | | 1 | 3 | 1 | 1 | 1 | |
| | Isaac Violet . . | | | | | | 1 | | 2 | | 1 | | |
| | John Violet . . . | | 3 | 1 | | 1 | | | 2 | 1 | | 1 | |
| | Alexander Violet . | 1 | 2 | | 1 | 1 | 1 | | 1 | | | 1 | |
| | John Miresheir . | 1 | 2 | 1 | | | 1 | | 1 | 3 | 4 | 1 | |
| | Peter Peltihey . . | | | 1 | | | 1 | | | 2 | | 1 | |
| | Charles Martin . . | | | | | | 1 | | | 2 | | 1 | |
| | John B. Martin . | | 2 | 2 | | | 1 | | 3 | 1 | | 1 | |
| | Bartholeneuw Burgoin | | 1 | | | | 1 | | 1 | | 1 | | |
| | Andrew Martin . | | 4 | | | | 1 | | 1 | | 1 | | |
| | Belon Martin . . | | 1 | | | | 1 | | 1 | | 1 | | |
| | Bartis Morris . . | | 1 | 1 | | | 1 | | 2 | 1 | 1 | | |
| Matawascabi Parish. | Charles Bolio . . | | 2 | | | | 1 | | 3 | | 1 | | |
| | Peter McCure . . | | 3 | | | | 1 | | 1 | | 1 | | |
| | Jereman Morio . | | 2 | 1 | | | 1 | | 4 | | 1 | | |
| | Bazell Martin . . | | 1 | | | | 1 | | 2 | | 1 | | |
| | David Crook . . | | 4 | | | | 1 | | 4 | | 1 | | |
| | Larison Volet . . | | 1 | | | | 2 | | | | 1 | | |
| | Lewis Sumpheysaw | 1 | 1 | | | | 1 | | 4 | | | 1 | |

SCHEDULE—continued.

Appendix
No. 50.Extract from the
Census of the U.
States of 1820.

| Name of the County, Parish, Township, Town, or City, where the family resides. | Names of Heads of Families | Foreigners not naturalized. | Free White Males. | | | | | | Free White Females. | | | | | |
|---|-------------------------------|-----------------------------|-----------------------------------|-------|-------|--|-------|-------|--|-------|-------|--|-------|-------|
| | | | Free White Males under ten years. | | | Free White Males of ten and under sixteen. | | | Free White Females under ten years of age. | | | Free White Females of ten and under sixteen. | | |
| | | | to 10 | to 16 | to 18 | to 16 | to 18 | to 20 | to 10 | to 16 | to 18 | to 16 | to 18 | to 20 |
| | | | to 10 | to 16 | to 18 | to 16 | to 18 | to 20 | to 10 | to 16 | to 18 | to 16 | to 18 | to 20 |
| Matamoras Parish. | Francis Carney . . | | 4 | 3 | | | | 1 | 3 | 1 | | | | |
| | Frederic Tareo . . | 1 | 2 | | | | | 1 | 2 | | | | | 1 |
| | Simon Tareo . . | | 3 | 2 | | | | 1 | 3 | | | | | 1 |
| | Peter Camio . . | 1 | | 2 | | | | 1 | 3 | 2 | | | | 1 |
| | Alexander Carnio . | 1 | | | | | | 1 | 3 | | | | | 1 |
| | Oliver Tibedore . . | 1 | 2 | | | 2 | | 1 | 1 | | | | | |
| | Augustis Violet . . | 1 | 4 | 2 | | | | 1 | 1 | 3 | | 1 | 1 | |
| | Francis Violet . . | 1 | 3 | | | | | 1 | 1 | | | | 1 | 1 |
| | John B. Parser . . | | 1 | | | | | 1 | 1 | | | 1 | 1 | |
| | Greguire Tibedore . | 1 | 1 | 1 | | 1 | | 1 | 3 | 4 | | 1 | 1 | 1 |
| | Paullet Tibedore . . | | 3 | 1 | | | | 1 | 2 | | | 2 | 1 | |
| | John B. Gavah . . | | | | | 1 | | | 1 | | | 1 | | |
| | Augustus Gavah . . | | | | 1 | 1 | | | | | | 1 | | |
| | Phinney Stephedo . | | | 1 | 1 | 1 | | | 1 | 3 | | | 1 | |
| | Benjamin Versier . | | | 1 | | | | 1 | | 1 | | | 1 | |
| | Joseph Tarrio . . | 1 | | 2 | | 1 | | 1 | | | | | 1 | |
| | Lawrance Tarrio . . | | 2 | 1 | | | | 1 | 2 | | | 1 | | |
| | Phernah Dusett . . | 1 | 3 | 1 | | | | 1 | 3 | 2 | | 1 | | |
| | John B. Tibedore, Jr. | | 2 | | | | | 1 | 2 | | | 1 | | |
| | George Tibedore . . | | | 2 | | | | 1 | 4 | 2 | | 1 | | |
| | Betis Tibedore . . | | | 2 | | | | 1 | | 1 | | | 1 | |
| | Joseph Tibedore . . | | | 2 | 3 | 3 | | 1 | 2 | 1 | | 1 | 1 | |
| | John B. Tibedore . . | 1 | | | 1 | 1 | | | 2 | | | 1 | | |
| | Lario Belliley . . | 1 | | | | 1 | | | 1 | | | 1 | | |
| | Nicholas Pelchey . . | 1 | | | | 1 | | | 4 | | | 1 | | |
| | John Betuke . . | | 2 | | | 1 | | | 1 | | | 1 | | |
| | Alexander Crook . . | | 1 | | | 1 | | | 1 | | | 1 | | |
| | John B. Tibedore, 3d | | 2 | 1 | | 1 | | | 3 | | | 1 | | |
| | Lewis Stephed . . | | 1 | | | 1 | | | | | | 1 | | |
| | Henry Versier . . | | | | | 1 | | | | | | 1 | | |
| | David Tibedore . . | | 2 | | | 1 | | | 1 | | | 1 | | |
| | Michael Tibadore . . | | 2 | | | 1 | | | 1 | | | 1 | | |
| | Peter Crook . . | 1 | 2 | | | 1 | | | 1 | | | 1 | | 1 |
| | John Betis Tibedore . | 1 | | | | | | | 1 | | | | | 1 |
| | Betis Lewsure . . | | 1 | | | | | 1 | 2 | | | 1 | | |
| | Joseph Lewsure . . | | 1 | 1 | | | | 1 | | 2 | | 1 | | |
| | Francis Tibbedo . . | 1 | | | 1 | 1 | | | 1 | | | | 1 | |
| | Jeremiah Crook . . | 1 | 1 | | 1 | 1 | 1 | 1 | | | | | 1 | |
| | Harris Laushiere . . | | 1 | | 1 | 1 | | | | | | 1 | | |
| | David Cyer . . | 1 | | 1 | | | | 1 | | 2 | | 1 | | |
| | Charles Ad. et . . | | | 3 | | | | 1 | | 2 | | 1 | | |
| | Peter Duperre . . | 1 | | 1 | | | | 1 | | | | 1 | | |
| | Peter Lezert . . | 1 | 1 | | 1 | 2 | | | 1 | 3 | 2 | | | 1 |
| | John Betisiere . . | 1 | 2 | 1 | | 1 | 1 | 1 | 1 | | 2 | 1 | | |
| | Christopher Cyer . . | 1 | 1 | 2 | 1 | 3 | | 1 | | 1 | | 1 | 1 | |
| | Joseph Cyer . . | 1 | 1 | | | 2 | | 1 | | | | 1 | 1 | |

SCHEDULE—continued.

Appendix.
No. 50.

Extract from the
Census of the U.
States of 1820.

| Name of the County, Parish, Township, Town, or City, where the family resides. | Names of Heads of Families. | Free White Males. | | | | | | | Free White Females. | | | | |
|---|--------------------------------|-----------------------------------|--|--|--|---|--|---|--|--|---|--|---|
| | | Foreigners not naturalized. | | | | | | | Free White Females under ten years of age. | | | | |
| | | Free White Males under ten years. | Free White Males of ten and under sixteen. | Free White Males between sixteen and eighteen. | Free White Males of sixteen and under twenty-six, including heads of families. | Free White Males of twenty-six and under forty-five, including heads of families. | Free White Males of forty-five and upwards, including heads of families. | | Free White Females of ten and under sixteen. | Free White Females of sixteen and under twenty-six, including heads of families. | Free White Females of twenty-six and under forty-five, including heads of families. | Free White Females of forty-five and upwards, including heads of families. | |
| | | (a) (1) | (a) (2) | (a) (3) | (a) (4) | (a) (5) | (a) (6) | | (a) (7) | (a) (8) | (a) (9) | (a) (10) | |
| Matwaseah Parish. | John Betis Dogle . | 1 | 2 | 1 | 1 | 1 | | 1 | 1 | 2 | 1 | | |
| | Chrisost Cyer . . | 1 | 2 | 1 | 3 | | 1 | | 3 | 1 | | 1 | |
| | Joseph Adyet . . | 1 | 1 | 1 | 1 | 1 | | 2 | | 1 | | | |
| | Xasrie Cyr . . . | 1 | 1 | 2 | 1 | 2 | 1 | | 2 | | 3 | 1 | |
| | Joseph Daggie . . | 1 | | 3 | 1 | 1 | | | 1 | | 2 | 1 | |
| | Demeque Daggie . | 1 | 1 | | 1 | | 1 | | 1 | 1 | | | |
| | Michael Babtert . | | | 1 | 1 | | | | 1 | | 1 | | |
| | Chrystatine Marton | 1 | | 1 | 1 | 1 | | | 1 | 1 | 1 | | |
| | Michael Man . . . | 1 | 1 | 2 | 1 | 1 | 1 | | 2 | | 1 | | |
| | Vincent Albert . . | | 2 | | 1 | | | | | 1 | | | |
| | Germanis Savuire . | 1 | 2 | | 2 | 1 | | 2 | 1 | 1 | 1 | | |
| | Chement Sausiere . | | 2 | 1 | 3 | 1 | 1 | | 2 | | | | |
| | Joseph Michand . | | 2 | 1 | 1 | 1 | | 2 | | 1 | | | |
| | Isaac Violet, 3d . | 1 | 2 | 1 | 1 | 2 | 1 | 1 | 1 | | 1 | | |
| | Firmen Nadard . . | 1 | 2 | 1 | 1 | 1 | 1 | | 2 | | 1 | | |
| | Gumain Debe . . . | 1 | 2 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | |
| | Nathan Baker . . . | | 1 | 1 | 1 | 1 | | 1 | 2 | | 1 | | |
| | Colemarkee Chrint | | 1 | 2 | 2 | 2 | | | 2 | 1 | | | |
| | Joseph Mashaw . . | 1 | 3 | 2 | 2 | 2 | 2 | 1 | 2 | 1 | 3 | 2 | 1 |
| | Jeremy Jermer . . | 1 | 2 | 1 | 1 | 2 | | 1 | 1 | 2 | 1 | 1 | |
| | Paul Markee . . . | 1 | 2 | 2 | 2 | 2 | 1 | 1 | 3 | | | 1 | |
| | Joseph Albare . . | | 2 | | | 1 | | | | 1 | 1 | | |
| | Levy Clare | | 2 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | | |
| | Joseph Nedow . . | | 2 | | 1 | | | 1 | | 1 | | | |
| | Mermeit Dogle . . | 1 | 2 | 1 | 1 | 1 | 1 | | 1 | 1 | 1 | | |
| | Joseph Pelkey . . | 1 | 2 | 3 | | 1 | 1 | 1 | 1 | | 1 | | 1 |
| | Ran Pelkey | 1 | 2 | 1 | 1 | 2 | 1 | 1 | 1 | | 1 | | 1 |
| | Jarom Morio . . . | 1 | 2 | 1 | | | 1 | | 2 | | | | |
| | Vasion Bare | 1 | 1 | 2 | 1 | 1 | 1 | | 1 | 1 | 1 | | |
| | Baraam Bushiere . | | 2 | 1 | 1 | | | | 2 | 1 | | | |
| | Jeremir Joshua . . | 1 | 2 | 1 | | 1 | | | 2 | 1 | 1 | | |
| | Betis Joshua . . . | 1 | 2 | 1 | 1 | 3 | | 1 | 3 | 1 | 1 | 1 | |
| | Ely Neehoson . . . | 1 | 2 | 1 | 1 | 1 | 1 | | 3 | | 1 | | |
| | Clemon Shimon . . | 1 | 2 | | 1 | 1 | | 1 | 2 | 1 | | | 1 |
| | Joseph Mashaw . . | 1 | 3 | 1 | 1 | 2 | 1 | | 2 | 1 | 1 | | |
| | John Harford . . . | | 2 | | | 1 | | | 2 | | 1 | | |
| | John Hitchambow . | 1 | 2 | 1 | | 1 | 1 | | | 1 | 1 | | 1 |
| | Lewis Leebore . . | | 2 | 1 | | 1 | | | | 1 | | | |
| | Paul Marquis . . . | | | 2 | | 1 | | | | | 1 | | |
| | Gruino Chasse . . . | | 3 | | | 1 | | | | | 1 | | |
| | Joseph Michael . . | | 3 | 1 | 1 | 2 | | 1 | 1 | 1 | | | 1 |
| | Abert Albert, Jr. . | 1 | 2 | 1 | | 1 | 1 | | 2 | | 1 | 1 | |
| | Alare Ann L. Clare | | 1 | | | 1 | | | | | 1 | | |
| | Joseph Martin . . | 1 | 2 | 1 | | 1 | | 1 | 3 | | 1 | | |
| | Simon Martin . . . | | 3 | 2 | | 1 | 1 | | 1 | | 1 | | |
| | Joseph Albert . . . | | 2 | | 1 | 2 | 1 | | | | 1 | | |

SCHEDULE—continued.

Appendix.
No. 50.Extract from the
Census of the
State of 1820.

| Name of the County, Parish, Township, Town, or City, where the family resides. | Names of Heads of Families | Free White Males. | | | | | | | Free White Females. | | | | | | |
|---|-------------------------------|-----------------------------------|--|--|--|---|--|--|--|--|---|--|----|---|--|
| | | Foreigners not naturalized. | | | | | | | | | | | | | |
| | | Free White Males under ten years. | Free White Males of ten and under sixteen. | Free White Males between sixteen and eighteen. | Free White Males of sixteen and under twenty-six, including heads of families. | Free White Males of twenty-six and under forty-five, including heads of families. | Free White Males of forty-five and upwards, including heads of families. | Free White Females under ten years of age. | Free White Females of ten and under sixteen. | Free White Females of sixteen and under twenty-six, including heads of families. | Free White Females of twenty-six and under forty-five, including heads of families. | Free White Females of forty-five and upwards, including heads of families. | | | |
| | | to 10 | to 16 | 16 to 18 | 16 to 26 | to 45 | 45, &c. | to 10 | to 16 | to 26 | to 45 | 45, &c. | | | |
| Matawascab Parish. | Elecis Cyr . . . | 1 | 3 | 3 | 1 | 1 | 1 | 1 | 1 | 1 | | 1 | | | |
| | Joseph Cyr . . . | | 2 | 3 | 1 | 1 | 1 | | | | | | | | |
| | Benjamin Nedar . . | 1 | 1 | 2 | 1 | 1 | 1 | 3 | 1 | 2 | 1 | | | | |
| | Lewis Belflour . . | 1 | 2 | 3 | 1 | 1 | 1 | | | | 1 | | | | |
| | Michael Meeure . . | | | 1 | | 1 | 1 | 3 | 2 | | 1 | | | | |
| | Lewis Meeure . . | | 3 | 1 | | 1 | 1 | 2 | 1 | | 1 | | | | |
| | Francis Martin, Jr. | 1 | 3 | 2 | | 1 | 1 | 2 | | 1 | | | | 1 | |
| | Michael Martin 3d | 1 | 3 | | 1 | 1 | 1 | 2 | 1 | | | | | 1 | |
| | Michael Serene . . | 1 | 4 | 1 | 1 | 3 | 2 | 1 | 2 | 3 | | | | 1 | |
| | Lewis Belflour, Jr. | 1 | 2 | | | 1 | 1 | 1 | 1 | 1 | 1 | | | 1 | |
| | Anthony Gange . . | | 2 | | | | 1 | | 2 | | | 1 | | 1 | |
| | Nicholas Peltiere . | 1 | 2 | 3 | 1 | 3 | | 1 | 3 | 1 | 3 | | | 1 | |
| | Augustine Peltiere | | 1 | | | 1 | | | | 1 | | | | | |
| | Nicholas Peltiere, Jr | | 2 | 1 | | 1 | | 1 | | 1 | | | | | |
| | Leon Belflour . . | | 1 | | | 1 | | | | 1 | | | | | |
| | John Thibedore . . | 1 | 3 | 2 | | | 1 | 1 | 1 | | | 1 | | | |
| | John B. Thibedore | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | | 1 | | | |
| | Jean Sier . . . | | | 1 | 1 | 1 | | | | | | 1 | | | |
| | Michael Thibedore | | 1 | | | 1 | | 2 | | 1 | | | | | |
| | David Thibedore . | | | | | | 1 | 2 | 1 | | | 1 | | | |
| | Joseph Thibadore . | | 2 | 1 | | | | 1 | 2 | | | 1 | | | |
| | George Thibedore | | 1 | 2 | | 1 | | | 1 | | | 1 | | | |
| | Lewis Thibedore . | | 1 | | | 1 | | | | | 1 | | | | |
| | John B. O. Thibedore | | 1 | 1 | | 1 | | | 1 | | | 1 | | | |
| | Francis Dorsett . . | 1 | 2 | 1 | | 1 | 1 | 1 | 2 | | | | | 1 | |
| | Lorent Jenian . . | 1 | 1 | 2 | 1 | 1 | 1 | | | | | 1 | | 1 | |
| | Joseph Jenian . . | 1 | | | | 1 | | 3 | | | | 1 | | 1 | |
| | Benjamin Lerassaus | 1 | 1 | 1 | | 1 | | | | 1 | | | | | |
| | Honerd Lerassaus | 1 | 2 | 1 | 1 | 1 | | 2 | 1 | | 1 | | | | |
| Total . | | 72 | 222 | 131 | 57 | 116 | 105 | 45 | 193 | 102 | 85 | 88 | 24 | | |

UNITED STATES OF AMERICA,
Maine District, ss.

I, John Mussey, Clerk of the United States' District Court for Maine District, do hereby certify whom it may concern, that the foregoing is a true and correct copy from the original document, the same being one of the several returns of enumeration of the Inhabitants of Maine District, as returned by the Marshal and his Assistants, and which, in conformity to the Act providing for the enumeration of the inhabitants of the United States, were laid before the Grand Jury of said District, for their inspection, at a District Court holden at Wiscasset, on the second Tuesday, being the eleventh of September, in the year of our Lord one thousand eight hundred and twenty-one.

Appendix. and by them returned into Court, and subsequently filed in this office agreeably to the
 No. 50. provisions of said Act.

Extract from the
 Census of the U.
 States of 1820.

In testimony whereof I have hereunto set my hand and the Seal of said
 District Court this sixteenth day of October, in the year of our Lord one
 [L. s.] thousand eight hundred and twenty-eight, and of the Independence of
 said United States the fifty-third.

JOHN MUSSEY.

UNITED STATES OF AMERICA,

Maine District, ss.

Be it known to all whom it may concern, that I, Ashur Ware, Judge of the United
 States for Maine District, do hereby certify, that John Mussey is Clerk of the United
 States' District Court for said District; and that the foregoing signature is the signature
 of the said Mussey, and that full faith and credit are due to his official attestations.

In testimony whereof I have hereunto set my hand and caused the Seal of
 said District Court to be affixed, this twentieth day of October, in the year
 [L. s.] of our Lord one thousand eight hundred and twenty-eight, and of the In-
 dependence of the United States the fifty-third.

ASHUR WARE.

APPENDIX No. LI.

GRANTS OF LAND

BY

THE COMMONWEALTH OF MASSACHUSETTS.

Commonwealth of Massachusetts.

By His Excellency Levi Lincoln, Esquire, Governor and Commander-in-Chief in and over said Commonwealth. To all whom it may concern: *Appendix.*
No. 51.

Know ye that George W. Coffin, Esquire, of Boston, is Land Agent of the Commonwealth of Massachusetts, in the said Commonwealth, duly constituted and commissioned, and that to his [L. s.] LEVI LINCOLN. act and attestations, as such, full faith and credit are and ought to be given in and out of Court.

Grants of land by the Commonwealth of Massachusetts.

In testimony whereof, I have caused the Public Seal of the Commonwealth to be hereunto affixed, this sixteenth day of August, A. D. 1828, and in the fifty-third year of the Independence of the United States of America.

By His Excellency the Governor.

EDWARD D. BANGS,
Secretary of the Commonwealth

ARTICLES OF AGREEMENT

FOR THE SALE, TO H. JACKSON AND ROYAL FLINT, OF CERTAIN LANDS IN THE EASTERN PART OF MASSACHUSETTS. 18 APRIL, 1772.

Commonwealth of Massachusetts.

Articles of Agreement made and entered into this eighteenth day of April, one thousand seven hundred and ninety-two, between Samuel Phillips, Leonard Jarvis, and John Read, a major part of the Committee for the sale of unappropriated Lands in the Eastern parts of this Commonwealth on the first part, and Henry Jackson and Royal Flint for themselves and associates of the second part, witness as follows, viz:

Articles of Agreement for the sale of certain lands to H. Jackson and A. Flint.

ARTICLE I.

It is hereby mutually covenanted and agreed by and between the said committee and the said Jackson and Flint, that they the said Committee shall sell, and they do hereby, in behalf of the said Commonwealth, contract to sell to the said Jackson and Flint, all the lands belonging to this Commonwealth within the following bounds: *South* by lands which were sold to said Jackson and Flint by contract dated the first day of July last; *Westerly* by a line on the east side of the great Eastern branch of Penobscot river, at the distance of six miles therefrom; *Easterly* by the river Schoodick,

Appendix.
No. 51.

Grants of land
by the Common-
wealth of Massa-
chusetts.

Articles of Agree-
ment for the sale
of certain lands to
H. Jackson and A.
Flint.

and a line extending northerly from the source thereof to the Highlands, and *Northerly* by the Highlands, or by the line described in the Treaty of Peace between the United States and His Britannic Majesty; excepting and reserving therefrom, four lots, of three hundred and twenty acres each, to every township or tract of land of six miles square, to be appointed to the following purposes, viz: One for the first settled minister, one for the use of the ministry, one for the use of schools, and one for the future appropriation of the General Court. The said lots to average in goodness and situation with the other lots in the respective townships; and also excepting and reserving a tract or tracts (not exceeding five) equal in the whole to one tract of six miles by thirty, to be reserved for the use of the Commonwealth, in such part or parts as the said Committee shall judge best adapted for furnishing masts, in case such tract or tracts shall be found, as, in the opinion of the said Committee, shall be suitable for this purpose, and not otherwise. The said Tract or Tracts not to be laid out within six miles of the Eastern or Western boundary lines, and to be located within two years from this date.

ARTICLE II.

It is hereby further covenanted and agreed that the said Jackson and Flint shall, and they do hereby contract to purchase of the said committee, all the lands specified in the foregoing Article, and to pay to the Treasurer of the said Commonwealth, at the rate of twenty-one cents for every acre of the land and water, that may be conveyed to them, conformably to the first article, and to allow an interest of six per centum per annum, after twelve months from the date hereof, till paid; the payments to be made at the periods, and in the proportions specified in the third article.

ARTICLE III.

It is further covenanted and agreed by the said Jackson and Flint, that calculating the amount of all the land and water specified in the first article at the rate of twenty-one cents per acre, and interest thereon after one year from the date of this contract, at the rate of six per centum per annum, and allowing the interest to become principal at the end of each year, on which interest is to be thenceforward calculated, they will pay the amount of the whole principal and interest so calculated in the following manner; that is to say, five thousand dollars in thirty days from the date hereof, and thirty thousand dollars annually, until the whole of said principal and interest, calculated as aforesaid, is discharged; the first annual payment to be made on the eighteenth day of April, one thousand seven hundred and ninety-three, and all the payments to be made in specie.

ARTICLE IV.

In order to secure the fulfilment of the two preceding articles, the said Jackson and Flint do hereby covenant and agree to procure personal security, such as the said committee shall approve of, to the amount of one-fourth part of all the lands, with the interest thereon, calculated as in the preceding article; said securities to be divided into as many parts as is stipulated in the foregoing article the same shall be paid in, and such personal security shall be given for one-fourth part of the payments to be made in each year, said obligations to be considered as security for part of the sum so stipulated in said article to be annually paid.

ARTICLE V.

The said Committee do further covenant and agree, that the said Commonwealth shall and will execute good and sufficient deeds of the lands aforementioned, to the said Jackson and Flint, or their legal representatives, as often and whenever they shall have paid for any quantity not less than one hundred and twenty-five thousand acres, at the

price stipulated in this contract, subject however to the conditions expressed in the *Appendix*.
following articles.

ARTICLE VI.

It is hereby mutually covenanted and agreed by the parties, that should the said Jackson and Flint choose to make payment of any or all the sums specified in the several instalments, prior to the respective periods when the same shall become due, they may have a right so to do, and on the anticipation of such a payment, such a discount shall be made therefrom, as shall leave a sum to be received by the treasurer of the said Commonwealth, which, with an interest of six per centum per annum, paid annually, would have completed the payment so anticipated at the period it would have become due.

ARTICLE VII.

The said Jackson and Flint further covenant and agree to lay out the lands they have stipulated to purchase into Townships of six miles square, or as nearly as circumstances will admit, and to place thereon four hundred inhabitants in five years, and two hundred inhabitants annually afterwards, on one million acres, and in that proportion on a larger or smaller quantity; and in such manner as that forty inhabitants shall be settled on each township, in twelve years from the date of this covenant.

ARTICLE VIII.

It being an important object with the said Commonwealth to secure the settlement of the lands in the manner expressed in the seventh article, it is hereby covenanted and agreed by the said Jackson and Flint, that the said Commonwealth shall be held to give deeds only for one half of the lands that may be paid for, till the terms of settlement, as before expressed, are complied with, or until the stipulations in the ninth article shall be fulfilled.

ARTICLE IX.

The said Jackson and Flint having a right to anticipate the payments stipulated in the third article, it is hereby understood and agreed by the said Committee, that the said Jackson and Flint shall, notwithstanding what is expressed in the eighth article, be entitled to receive clear and complete deeds of the whole quantity of land paid for: provided, that at the time of requiring such deeds, they shall have deposited in the Treasury of the said Commonwealth, thirty dollars of the six per cent. stock of the United States for each and every inhabitant deficient of the number stipulated to be placed on the land; but it is understood that the number of inhabitants for which a deposit is to be made for the purpose of obtaining a deed of land which shall have been paid for, is to bear the same proportion to the quantity of lands for which deeds are demanded, as forty inhabitants bears to one township of six miles square.

ARTICLE X.

It is hereby further mutually covenanted and agreed, that the six per cent. stock which may be deposited by the said Jackson and Flint in the Treasury of the Commonwealth of Massachusetts, to secure the settlement expressed in the seventh article, shall be restored to the said Jackson and Flint, in proportion as they shall put the number of inhabitants on the land, at the several periods specified, and thirty dollars of the aforesaid stock shall be forfeited to the said Commonwealth for each and every inhabitant which shall be deficient of the number stipulated at the respective periods. The interest accruing on the unforfeited six per cent. stock, while in the Treasury as aforesaid, to be for the benefit of the said Jackson and Flint.

Grants of land
by the Commonwealth of Massachusetts.

Articles of Agreement for the sale of certain lands to B. Jackson and A. Flint.

Grant of land
by the Common-
wealth of Massa-
chusetts.

Articles of Agree-
ment for the sale
of certain lands to
H. Jackson and R.
Flint

It is agreed by both the contracting parties, that within sixty days after the surveyors shall have returned a plan of the tract of land hereby contracted to be sold, either the said Jackson or Flint being notified thereof, they, the said Jackson and Flint, will make to the Treasurer of the Commonwealth other bonds for such sums as, with the bonds stipulated to be given by the fourth article shall complete the instalments mentioned in the third article, and payable at the same periods respectively as the bonds last mentioned, and in the whole be equal to the amount of the lands purchased, and interest thereon conformable to the said third article; and that the said Commonwealth shall and will make and execute to the said Jackson and Flint, their heirs and assigns forever, good and sufficient deeds with warranty, bearing even date with the bonds abovementioned, each of the said deeds to convey such proportion of the tract or tracts herein contracted to be sold, as fifteen thousand dollars are to the amount of all the bonds aforesaid, beginning at the Southerly and progressing to the Northerly part of the said land; all the deeds aforesaid to be deposited in the hands of three persons, such as both the contracting parties shall agree on, and to be by them delivered to the Grantees in the following manner, viz: one of the said deeds on the payment of the bonds which conformably to this and the fourth article shall become due on the eighteenth day of April, seventeen hundred and ninety-three, and one other of the said deeds on the payment of the bonds which shall become due at the expiration of each of the next succeeding years, and one other of the said deeds to be delivered as aforesaid, on the performance of such proportion of the settling duty stipulated in the seventh and ninth articles, as thirty thousand dollars are to the amount of all the bonds aforesaid. Provided, that no deed shall be delivered till the bonds which shall have become due, previous to the bonds given for the lands described in the deed applied for, shall have been cancelled.

ARTICLE XII.

It is hereby agreed by the said Committee, that the lands contracted for in this agreement shall be surveyed by Surveyors, under oath, to be by them appointed and within twelve months of this date, or as soon after as may be, at the expense of the Commonwealth, and shall be exempted from State Taxes for the space of ten years, to be calculated from the date hereof, and a plan of the land so surveyed shall be delivered to the said Jackson and Flint, within two months after the surveys are completed.

In witness whereof both the contracting parties before named, have hereunto interchangeably set their hands and seals, the day and year herein first mentioned Signed, sealed, and delivered in presence of us,

DAVID COBB,
THOMAS WALCOTT,
ROYAL FLINT, *in presence of*
DAVID COBB,
JOSEPH WOODWARD,

HENRY JACKSON, [L. S.]
ROYAL FLINT, [L. S.]
SAML. PHILLIPS, [L. S.]
LEO. JARVIS, [L. S.]
JOHN READ. [L. S.]

Commonwealth of Massachusetts.

LAND OFFICE, *Boston, 16th August, 1828.*

This certifies that the foregoing instrument is a true copy of the articles of agreement to sell certain lands to Messrs. Jackson and Flint by the Committee for the sale of Eastern lands, now on the files of this office.

Attest:

GEO. W. COFFIN,
Land Agent

Commonwealth of Massachusetts.

*By His Excellency Levi Lincoln, Esquire, Governor and Commander-in-Chief
in and over said Commonwealth.*

*Appendix.
No. 51.*

Grants of land
by the Common-
wealth of Mass-
achusetts.

Grants to West-
field and Deerfield
Academies.

To all whom it may concern:

[L. s.] Know ye, That George W. Coffin, Esquire, is Land Agent of the
LEVI LINCOLN. Commonwealth of Massachusetts, in the said Commonwealth,
duly constituted and commissioned, and that to his acts and at-
testations, as such, full faith and credit are and out to be given in
and out of Court.

In testimony whereof, I have caused the Public Seal of the Commonwealth to be
hereunto affixed, this twenty-second day of September, A. D. 1828, and in the fifty-
third year of the Independence of the United States of America.

By His Excellency the Governor.

EDWARD D. BANGS,
Secretary of the Commonwealth.

GRANTS OF LAND

TO THE WESTFIELD AND DEERFIELD ACADEMIES.

Commonwealth of Massachusetts.

Resolved, That in pursuance of a report of a joint Committee, which has been ac- *Resolve respecting*
cepted by both branches of the Legislature; there be, and hereby is, granted to the *agents to the Trust-*
Trustees of Westfield Academy, and to their Successors, one half Township of Land, *ees of Westfield*
of six miles square, for said Academy, to be laid out or assigned by the Committee *Academy.*
for the sale of Eastern lands, in some of the unappropriated lands in the District of
Maine, belonging to this Commonwealth, excepting all lands within six miles of *Penob-*
scot river, with the reservations and conditions of settlement which have usually been
made in cases of similar grants. Which said tract of land the said Trustees are here-
by empowered to use, improve, sell, or dispose of, as they may think most for the
benefit of said Institution.

IN SENATE, *June 9th, 1797.*

Sent down for concurrence. Read and accepted.

SAML. PHILLIPS, *Prest*

IN THE HOUSE OF REPRESENTATIVES, *June 10, 1797*

Read and concurred.

EDWD. H. ROBBINS, *Speaker.*

Approved.

INCREASE SUMNER.

June 12, 1797.

Commonwealth of Massachusetts.

SECRETARY'S OFFICE.

I hereby certify, that the foregoing is a true copy of the original Resolve.

[L. s.] In testimony of which, I have hereunto affixed the Seal of the said Com-
monwealth, in my custody and possession, this twenty-second day of
September, in the year of our Lord one thousand eight hundred and
twenty eight, and of the Independence of the United States of Ameri-
ca the fifty-third.

EDWARD D. BANGS,
Secretary of the Commonwealth.

Commonwealth of Massachusetts.

Appendix.
No. 51.Grants of land
by the Common-
wealth of Massa-
chusetts.Grants to West-
field and Deerfield
Academies.Resolve respecting
a grant to the Trus-
tees of Deerfield
Academy.

Resolved, That in pursuance of a report of a joint Committee which has been accepted by both branches of the Legislature; there be, and hereby is, granted to the Trustees of Deerfield Academy, and to their successors forever, one half of a Township of six miles square, for and to the use of said Academy, to be laid out or assigned by the Committee for the sale of Eastern lands, in some of the unappropriated lands in the District of Maine belonging to this Commonwealth, excepting all lands within six miles of Penobscot river, with the reservations and conditions of settlement which have been usually made in cases of similar grants; which said tract of land the said trustees are hereby empowered and authorized to use, improve, sell or dispose of, as they may think most for the advantage of said institution.

IN SENATE, *June 14th*, 1797. .

Read and accepted. Sent down for concurrence.

SAML. PHILLIPS, *Prest.*IN THE HOUSE OF REPRESENTATIVES, *June 17*, 1797.

Read and concurred.

EDWD. H. ROBBINS, *Speaker*.*June 19*, 1797.

Approved.

INCREASE SUMNER.

Commonwealth of Massachusetts.

SECRETARY'S OFFICE.

I hereby certify that the foregoing is a true copy of the original Resolve.

In testimony of which, I have hereunto affixed the Seal of the said Commonwealth, in my custody and possession, this twenty-second day of

[L. s.] September, in the year of our Lord one thousand eight hundred and twenty-eight, and of the Independence of the United States of America the fifty-third.

EDWARD D. BANGS,

*Secretary of the Commonwealth.*Grant to the Trus-
tees of Westfield
Academy.

To all people to whom these presents shall come, Greeting : Whereas the Legislature of the Commonwealth of Massachusetts did grant to the Trustees of Westfield Academy, half a Township of land, by a resolve, bearing date the twelfth day of June, seventeen hundred and ninety-seven; Now therefore know ye, that we, whose names are undersigned, and seals affixed, appointed Agents by a resolve of the General Court, passed the fifteenth day of March, eighteen hundred and five, to make and execute conveyances, and by virtue of other powers vested in us by the same resolve, do, by these presents, in behalf of said Commonwealth, assign, relinquish and quit claim, unto the Trustees of Westfield Academy, and their successors, to be by them holden in their corporate capacity, for the use of said Academy, half a Township of Land, lying in the County of Washington, or equal to the contents of six miles by three, as the same was surveyed by Hoyt and Shepherd, in the year eighteen hundred and five, bounded as follows, viz: Beginning at the South-west angle of the Soldiers' Township (so called) in which angle stands a Cedar tree, marked on the East side S. W. and S. T. and on the West side, S. E. 1805 [mark]; thence running due West six miles to a Spruce tree, marked on the East side S. W. S. W. E. H. 1805 [mark]; on the north side are the same marks; thence north three miles to a small *Fir* marked 3 M.; thence East six miles to the West line of said Soldiers' Township; thence South, three miles on said Soldier Township to the Cedar first described: Conditioned however, that the said grantees, or

their assigns, shall lay out and convey to each settler, who settled on said tract before the first day of January, seventeen hundred and eighty-four, one hundred acres, to be laid out so as best to include his improvements, and be least injurious to the adjoining lands; and that they shall settle on said tract, ten families in six years, including those now settled thereon, and that they shall lay out three lots of one hundred and sixty acres each, for the following uses, viz: One lot for the use of the ministry, one lot for the first settled minister, his heirs and assigns, and one lot for the use of schools in said tract. To have and to hold the same to the said Trustees, successors and assigns, on the conditions aforesaid forever.

Appendix.
No. 51.

Grants of land
by the Common-
wealth of Massa-
chusetts.

Grants to Westfield
and Deerfield Aca-
demies.

Grant to the Trus-
tees of Westfield
Academy.

And we the said Agents do covenant, that the said Commonwealth shall warrant and defend the premises, against the lawful claims and demands of all persons.

In testimony whereof, we have hereunto set our hands and seals, this twentieth day of September, eighteen hundred and six.

JOHN READ, [L. s.]
WM. SMITH, [L. s.]

Signed, sealed, and delivered in presence of

MARK PICKARD,

GEORGE W. COFFIN.

SUFFOLK, ss. Boston 20th September, 1806

Acknowledged before

JOS. MAY, Jus. Peace.

Commonwealth of Massachusetts.

LAND OFFICE, Boston, 20th September, 1828.

This certifies that the foregoing instrument is a true copy of the record in this office, volume No. 3, page 129.

Attest:

GEORGE W. COFFIN,
Land Agent.

To all people to whom these presents shall come, Greeting: Whereas the Legislature of the Commonwealth of Massachusetts did grant to the Trustees of Deerfield Academy half a Township of Land, by a resolve, bearing date the nineteenth day of June, seventeen hundred and ninety-seven: Now therefore know ye, that we whose names are undersigned and seals affixed, appointed Agents by a resolve of the General Court of the Commonwealth aforesaid, passed the fifteenth day of March, eighteen hundred and five, to make and execute conveyances, and by virtue of other powers vested in us by the same resolve, do by these presents, in behalf of said Commonwealth, assign, relinquish and quit claim unto the Trustees of Deerfield Academy, and their successors, to be by them holden in their corporate capacity, for the use of said Academy, half a Township of Land, lying in the County of Washington, or equal to the contents of six miles by three, as the same was surveyed by Hoyt and Shepherd, in the year eighteen hundred and five, bounded as follows, viz: Beginning at the North-west angle of the Soldiers' Township, which is a Birch tree marked *N. W. C. S. T. 108* [mark] on south-east side, on the north side marked 115, on the south side 148 and 9 spots, thence due West six miles to a Fir tree, marked *N. W. W. S. E. II. 1805*, [mark] on the south side, same on the east side, and the word *corner* on the S. E. side; thence south three miles to the North-west corner of the half Township, laid out for Westfield Academy; thence East six miles on said Westfield Academy land, to the Soldier Township; thence on said Soldier Township, north to the Birch first described; conditioned however, that the said grantees or their assigns, shall lay out and convey to each settler, who settled on said tract before the first day of January, seventeen hundred and eighty-four, one hundred acres, to be laid out so as best to include his improvements, and be least injurious to the adjoining lands; and that they shall settle in said tract ten families in six years, inclu-

Grant to the Trus-
tees of Deerfield
Academy.

Appendix. ding those now settled thereon; and that they shall lay out three lots of one hundred and sixty acres each, for the following uses, viz: one lot for the use of the ministry, one lot for the first settled minister, his heirs and assigns, and one lot for the use of schools in said tract. To have and to hold the same to the Trustees aforesaid, their successors and assigns, on the conditions aforesaid, forever. And we the said Agents do covenant, that the said Commonwealth shall warrant and defend the premises against the lawful claims and demands of all persons. In testimony whereof, we have hereunto set our hands and seals, this twentieth day of September, eighteen hundred and six.

JOHN READ, [L. S.]

WM. SMITH, [L. S.]

Signed, sealed and delivered in presence of

MARK PICKARD,

GEO. W. COFFIN.

SUFFOLK, ss. Boston, 20th September, 1806.

Acknowledged before

JOS. MAY, *Jus. Peace.*

Commonwealth of Massachusetts.

LAND OFFICE, Boston, 20th September, 1828.

This certifies that the foregoing Deed is a true copy of the record in this office, volume No. 3, page 127.

Attest:

GEO. W. COFFIN,

Land Agent.

Commonwealth of Massachusetts.

His Excellency Levi Lincoln, Esquire, Governor and Commander-in-Chief in and over said Commonwealth.

To all whom it may concern:

Know ye, that George W. Coffin, Esquire, is Land Agent for the Commonwealth of Massachusetts in the said Commonwealth, duly constituted and commissioned, and that to his act and attestations, as such, full faith and credit are and ought to be given in and out of Court.

[L. S.]

LEVI LINCOLN.

In testimony whereof, I have caused the Public Seal of the Commonwealth to be hereunto affixed, this 22d day of September, A. D. 1828, and in the fifty-third year of the Independence of the United States of America.

By His Excellency the Governor.

EDWARD D. BANGS,

Secretary of the Commonwealth.

GRANTS

TO THE INHABITANTS OF THE TOWN OF PLYMOUTH.

Commonwealth of Massachusetts.

On the petition of the inhabitants of the town of Plymouth, praying for legislative aid, for the security and preservation of their harbour, by repairing the beach mentioned in said petition.

Grant to the inhabitants of the town of Plymouth.

Resolved, for reasons set forth in said petition, that there is hereby granted to the said Town of Plymouth, (for the purpose aforesaid) a Township of Land six miles square, to be laid out and assigned to them by the Agents for the sale of Eastern lands, out of any unappropriated lands in the District of Maine, with the usual reservations and restrictions, excepting the ten townships of land on Penobscot river, purchased of the Indians: Provided however, that the said town of Plymouth shall, within two years from the passing of this resolve, raise and appropriate *five thousand dollars*, in addition to the above grant: the whole to be applied and laid out under the direction of an Agent or Agents to be appointed by his Excellency the Governor: Provided also, that the said town of Plymouth shall cause the said Township to be surveyed and located, and a plan thereof returned into the Land Office, within the term of three years.

Appendix.
No. 31.

Grants of land by the Commonwealth of Massachusetts.
Grant to the inhabitants of the town of Plymouth.

February 20th, 1806.

In Senate, read and accepted.

H. G. OTIS,

President.

In the House of Representatives, March 4, 1806.

Read and concurred.

TIMOTHY BIGELOW,

Speaker.

March 4, 1806, approved.

CALEB STRONG.

COMMONWEALTH OF MASSACHUSETTS,

Secretary's Office.

I hereby certify that the foregoing is a true copy of the original resolve.

In testimony of which, I have hereunto affixed the Seal of the said Commonwealth, in my custody and possession, this twenty-second day of September, in the year of our Lord one thousand, eight hundred and twenty-eight, and of the Independence of the United States of America, the fifty-third.

[L. S.]

EDWARD D. BANGS,

Secretary of the Commonwealth.

To all people to whom these presents shall come, Greeting:

Whereas the Legislature of the Commonwealth of Massachusetts did grant to the Town of Plymouth, a township of Land, by a resolve bearing date the fourth day of March, eighteen hundred and six,

Now therefore Know ye, that we whose names are undersigned and seals affixed, appointed agents by the General Court of the Commonwealth aforesaid, by a resolve passed the fifteenth day of March, eighteen hundred and five, to make and execute conveyances, and by virtue of other powers vested in us by the same and other resolves, Do, by these presents, in behalf of said Commonwealth, assign, relinquish and quit claim unto the Town of Plymouth, to be by them holden in their corporate capacity, for the use of said Town, all the right, title, and interest of said Commonwealth, in and unto a tract of land lying in the County of Washington, equal to the contents of six miles square, as the same was surveyed by Charles Turner, Junior, Esquire, in the year eighteen hundred and seven, bounded as follows, viz: Beginning at a Beech tree marked S. E. C. P. standing on the Eastern boundary line of the District of Maine, fifty-five miles north of the source of the Schoodic waters, and running north thirteen degrees East, six miles, to a Fir tree, marked sixty one miles; thence running West thirteen degrees North, six miles to a stake; thence running South thir-

Appendix. No. 51. Grants of land by the Commonwealth of Massachusetts Grant to the inhabitants of the town of Plymouth.

teen degrees West, six miles, to a Maple tree, marked S. W. C. P. thence running East thirteen degrees South, six miles, to the Beech tree first mentioned; together with all the Islands in those parts of the Aroostook river, which are included within the aforesaid bounds, together with all the privileges and appurtenances thereto belonging, excepting and reserving for the use of the Commonwealth, and as a common highway forever, the main channel of the said river Aroostook, in its course through the said Township; the said Township containing twenty three thousand and forty acres, including the river Aroostook running through the same, as will more fully appear on a plan of said Township, now lodged in the office of the aforesaid Agents.

To have and to hold the aforegranted premises, to the said Town of Plymouth or their assigns forever, on condition however, that the said grantees or their assigns, shall lay out and convey to each settler, who settled on said tract before the first day of January, seventeen hundred and eighty four, one hundred acres of land, (in case of the settler's decease without assignment, then to his heirs, and in case of assignment then to the assigns) to be so laid out as best to include the improvements of the settler, and be least injurious to the adjoining land; and that they shall settle in said tract twenty families within six years, including those now settled thereon; and that they shall lay out in said Township three lots of three hundred and twenty acres each, for the following uses, viz: One lot for the use of the Ministry, one lot for the first settled Minister, his heirs and assigns, and one lot for the use of schools in said tract; the said lots to average in situation and quality with the other lands in said Township.

To have and to hold the aforegranted premises, to the said Town of Plymouth or their assigns, on the conditions and reservations aforesaid, forever.

In Testimony whereof, we have hereunto set our hands and Seals, this nineteenth day of December, eighteen hundred and seven.

JOHN READ, [L. s.]

WM. SMITH, [L. s.]

Signed, sealed, and delivered in presence of

GEORGE W. COFFIN,

MOSES GREENLEAF.

SUFFOLK. ss. Boston, 19th December, 1807.

Acknowledged before

JOS. MAY, Jus. Peace.

Commonwealth of Massachusetts.

LAND OFFICE, Boston, 20th September, 1828.

This certifies that the foregoing deed is a true copy of the Record, in this office. Volume No. 3, page 273.

Attest:

GEO. W. COFFIN,

Land Agent.

RESOLVES

OF THE COMMONWEALTH OF MASSACHUSETTS, RESPECTING GRANTS OF LAND TO CERTAIN SOLDIERS.

Commonwealth of Massachusetts.

Whereas, in a rising republic, it is highly important to cherish that patriotism which conquers a love of ease, of pleasure, and of wealth; which prompts individuals to a love of their Country, and induces them to embrace every opportunity to advance its prosperity and happiness, as well by ameliorating the fate of those citizens whom the

fortune of war has thrown into captivity, as by cheerfully contributing to its support and defence: And whereas the love of enterprise, when guided by a just sense of propriety and benevolence, may become the parent of many virtues, and a State is sometimes indebted for its safety, to the virtues and undaunted courage of a single man:

And whereas the Senate and House of Representatives of this Commonwealth, are desirous to perpetuate a remembrance of the heroic enterprise of Wm. Eaton, Esq. while engaged in the service of the United States, whose undaunted courage and brilliant services so eminently contributed to release a large number of his fellow citizens, late prisoners in Tripoli, from the chains of slavery, and to restore them to freedom, their country, and their friends; Therefore Resolved, that the Committee for the sale of eastern lands be, and they are hereby, authorized and directed to convey to Wm. Eaton, Esq. a citizen of this Commonwealth, and to his heirs and assigns, a tract of land, to contain ten thousand acres, of any of the unappropriated land of this Commonwealth, in the District of *Maine*, (excepting the ten Townships on Penobscot river.)

And be it further Resolved, That His Excellency the Governor be requested, as soon as conveniently may be, to cause to be transmitted to the said Wm. Eaton, Esq. an authentic copy of this resolution.

IN SENATE, *February 25, 1806.*

Sent down for concurrence.

H. G. OTIS, *Pres.*

IN THE HOUSE OF REPRESENTATIVES, *March 3, 1806.*

Read and concurred.

TIMOTHY BIGELOW, *Speaker.*

March 4, 1806. Approved.

CALEB STRONG.

Commonwealth of Massachusetts.

SECRETARY'S OFFICE.

I hereby certify that the foregoing is a true copy of the original resolve.

In testimony of which, I have hereunto affixed the Seal of the said Commonwealth, in my custody and possession, this twenty-second day of September, in the year of our Lord one thousand eight hundred and twenty-eight, and of the Independence of the United States of America the fifty-third.

[L. s.]

EDWARD D. BANGS,

Secretary of the Commonwealth

To all people to whom these presents shall come, Greeting: Whereas the Legislature of the Commonwealth of Massachusetts, did grant to William Eaton, Esquire, ten thousand acres of land, by a resolve bearing date the fourth day of March, eighteen hundred and six:

Grant to William Eaton

Now therefore know ye, that we whose names are undersigned and seals affixed, appointed Agents by the General Court of the Commonwealth aforesaid, by a resolve passed the fifteenth day of March, eighteen hundred and five, to make and execute conveyances, and by virtue of other resolves, Do, by these presents, in behalf of said Commonwealth, assign, relinquish, and quit claim unto William Eaton, of the town of Brimfield, in the county of Hampden, and Commonwealth aforesaid, Esquire, his heirs and assigns, all the right, title, and interest of said Commonwealth, in and unto a tract of land lying in the County of Washington, containing ten thousand acres, as the same was surveyed by Charles Turner, Junior, Esquire, in the year eighteen hundred and seven: bounded as follows, viz: Beginning at a Maple tree marked S. E.

Appendix. C. E. and S. W. E. P. being the South-west corner of Plymouth grant; Thence No. 51. West thirteen degrees North, two miles one hundred and ninety-four rods, to a stake

Grants of land by the Commonwealth of Massachusetts.

Resolves by the Commonwealth of Massachusetts respecting grants of land to certain soldiers.

Grant to William Eaton.

being the South-west corner; thence North thirteen degrees East, six miles; thence East thirteen degrees South, two miles one hundred and ninety-four rods, to the North-west corner of a Township of land granted to the Town of Plymouth; thence South thirteen degrees West, six miles, on the line of said Plymouth Township, to the first mentioned bounds, together with all the Islands in those parts of the Aroostook river, which are included within the aforesaid bounds, together with all the privileges and appurtenances thereto belonging; excepting and reserving for the use of the Commonwealth, and as a common highway forever, the main channel of the said river Aroostook, in its course through the said tract of land; the said tract containing ten thousand acres of land, including the river Aroostook running through the same, as will more fully appear on a plan of said tract, now lodged in the office of the aforesaid Agents: To have and to hold the aforegranted premises to him the said William Eaton, his heirs and assigns forever. And we the said Agents do covenant, that the said Commonwealth shall warrant and defend the premises, against the lawful claims of all persons.

In testimony whereof, we have hereunto set our hands and seals, this twenty-eighth day of January, eighteen hundred and eight.

JOHN READ, [L. s.]

WM. SMITH. [L. s.]

Signed, sealed, and delivered in presence of

CHAS. DAVIS,

JOHN S. WILLIAMS.

SUFFOLK, ss. *Boston, 29th January, 1808.*

Acknowledged before

CLIAS. DAVIS,

Jus. Pacis.

Commonwealth of Massachusetts.

LAND OFFICE, *Boston, 20th September, 1828.*

This certifies that the foregoing Deed is a true copy of the record in this office, volume No. 3, page 289.

Attest:

GEO. W. COFFIN,

Land Agent.

Commonwealth of Massachusetts.

By His Excellency Levi Lincoln, Esquire, Governor and Commander-in-Chief in and over said Commonwealth.

To all whom it may concern:

Know ye, that George W. Coffin, Esquire, is Land Agent of the Commonwealth of Massachusetts, in the said Commonwealth, duly constituted and commissioned, and that to his acts and attestations, as such, full faith and credit are and ought to be given in and out of Court.

[L. s.]

LEVI LINCOLN.

In testimony whereof, I have caused the Public Seal of the Commonwealth to be hereunto affixed, this twenty-second day of September, A. D. 1828, and in the fifty-third year of the Independence of the United States of America.

By His Excellency the Governor.

EDWARD D. BANGS,

Secretary of the Commonwealth.

Whereas application has been made to this Court by a number of persons who served in the late American army during the war with Great Britain, praying for a grant of some of the unappropriated lands in this Commonwealth, and as such a grant will promote the settlement of such land, as well as be some reward to those Citizens whose meritorious services in the field so essentially contributed to establish our independence: Therefore, Resolved that there be, and hereby is, granted to each non-commissioned Officer and Soldier who enlisted into the late American Army to serve during the war with Great Britain, and who was returned as a part of this State's quota of said army, and who did actually serve in said army the full term of three years, and who were honorably discharged, and unto the children if any there be, if not to the widow of such non-commissioned Officer and Soldier, and to them only who enlisted as aforesaid and died in said service, two hundred acres, to be laid out at the expense of the Commonwealth, as soon as there shall appear a number sufficient to take up a quantity of land that shall be equal to one Township of six miles square, to be divided and appropriated under such regulations as the General Court shall hereafter prescribe, within the following limits, viz: beginning at the North-east corner of the land now appropriated by the Committee for the sale of Eastern lands, on the Eastern line of this Commonwealth; thence running west six miles; thence Northerly in a line parallel with the said Eastern boundary line, until a tract shall be completed sufficient for each non-commissioned Officer and private Soldier, their children or widows as aforesaid; to have the aforesaid quantity of two hundred acres, or twenty dollars as an equivalent for the aforesaid two hundred acres, to be paid out of the Treasury to the Selectmen of the Town where any such non-commissioned Officer or Soldier, their children or widows as aforesaid, resides, for his or their use and benefit.

And it is further resolved that where any such non-commissioned Officer or Soldier has deceased, or shall de cease before he shall get possession of the land hereby granted to him, his children or widow, as aforesaid, shall be entitled to the same, and in order to secure to the said non-commissioned Officers and privates, and their children and widows, as aforesaid, the benefits of this grant:

It is further resolved, that all deeds, mortgages or conveyances of, or bonds or contracts of every description, concerning any of said lands which may be made by any such non-commissioned Officer or private, or his children or widow, before the same shall be laid out and have a settlement made thereon, and five acres thereof shall have been brought under improvement, shall be null and void; provided always, that no such non-commissioned Officer or Soldier, his children or widow, shall have any benefit from this resolve, who shall not make application therefor within three years from the time of passing this resolve, and who shall not make the aforesaid settlement and cultivation within the term of six years. And the Secretary is directed to publish this resolve in such of the news papers printed in this Commonwealth as his Excellency the Governor may direct, six weeks successively, directly after passing the same.

IN SENATE, *March 4th*, 1801.

Read and accepted as taken into a New Draft. Sent down for concurrence.

SAML. PHILLIPS, *Pres.*

IN THE HOUSE OF REPRESENTATIVES, *March 4th*, 1801.

Read and concurred.

EDWARD H. ROBBINS, *Speaker*.

March 5th, 1801. Approved.

CALEB STRONG

Appendix.
No. 51.

Grants of land
by the Common-
wealth of Massa-
chusetts.

Resolve of the
Commonwealth of
Massachusetts re-
specting grants of
land to certain sol-
diers.

Commonwealth of Massachusetts.

SECRETARY'S OFFICE.

I hereby certify that the foregoing is a true copy of the original Resolve.

[L. s.] In testimony of which, I have hereunto affixed the Seal of the said Commonwealth, in my custody and possession, this twenty-second day of September, in the year of our Lord, one thousand eight hundred and twenty-eight, and of the Independence of the United States of America the fifty-third.

EDWARD D. BANGS,
Secretary of the Commonwealth.

Grant to B. Fessenden.

Know all Men by these presents, that I, the undersigned, whose seal is hereunto affixed, by virtue of powers vested in me by a resolve of the General Court of the Commonwealth of Massachusetts, passed the twenty-seventh day of February, eighteen hundred and thirteen, and pursuant to a resolve of said Court, passed the nineteenth day of February, eighteen hundred and thirteen, Do, by these presents, in behalf of said Commonwealth, assign, relinquish, and quit claim unto Benjamin Fessenden, of Boston, in the county of Suffolk, and Commonwealth aforesaid, his heirs and assigns, all the right, title and interest of the said Commonwealth, in and unto a lot of land situated and lying in a Township called Mar's Hill, or Soldier's township, in the county of Washington, being numbered twenty-one, bounded as follows, viz: North on lot number twenty-two, East on lot number nine, South on lot number twenty, and West on lot number thirty-three, as the same was surveyed by Charles Turner, Jr. in the month of September, eighteen hundred and four, as will more fully appear on reference being had to the plan of said Township, now lodged in the Land Office; containing two hundred acres. To have and to hold the aforegranted premises to the said Benjamin Fessenden, his heirs and assigns forever. In testimony whereof, I have hereunto set my hand and Seal, this second day of March, eighteen hundred and thirteen.

WILLIAM SMITH. [L. s.]

Signed, sealed and delivered in presence of us.

TITUS WELLES,

WILLIAM STEVENSON.

SUFFOLK, ss. *Boston, 2d March, 1813.*

Acknowledged before WM. STEVENSON, *Jus. Peace.*

Commonwealth of Massachusetts.

LAND OFFICE, *Boston, 22d September, 1828.*

This certifies that the foregoing instrument is a true copy of the record in this office, as recorded in volume No. 4, page 9; and that the resolve referred to in said instrument, dated 19th February, 1813, transfers the making of deeds from the Secretary of the Commonwealth to the Land Agents.

Attest:

GEO. W. COFFIN,
Land Agent.

Commonwealth of Massachusetts.

BOSTON, *June 6th, 1805.*

Certificator respecting a grant to G. Aldrich

This certifies that Gustavus Aldrich, of Mendon, in the county of Worcester, a soldier in the late American army, who was returned as a part of this State's quota of said army, enlisted for during the war with *Great Britain*, served three years after having so enlisted, and was honorably discharged, hath drawn lot No. 35 in a Township of Land, called *Mar's Hill*, located and lotted in the Eastern part of this

Commonwealth, agreeably to a resolve of the General Court, passed March 9, 1804, and that the said lot contains two hundred acres, bounded Easterly by lot No. 23, South-erly by lot No. 34, Westerly by lot No. 47, and Northerly by lot No. 36, according to a plan of the survey of said Township, called *Mar's Hill*, taken by Charles Turner, Jun. Esq. September, 1804, and lodged in the Secretary's office; and that on return of this *certificate* into the said Secretary's office, with satisfactory evidence that the duties required by a Resolve of the fifth of March, 1801, have been performed, within four years from the ninth of March, 1804, the said Gustavus Aldrich shall be entitled to a deed of the said Lot of Land in fee simple, to be given by the Secretary in behalf of the Commonwealth.

Appendix.
No. 31.

Grants of land
by the Common-
wealth of Massa-
chusetts.

Certificate respect-
ing a grant to G.
Aldrich

JOHN AVERY, *Secretary.*

Commonwealth of Massachusetts.

LAND OFFICE, *Boston, 20th September, 1828.*

This certifies that the within certificate is a true copy of the original record in this office.

Attest:

GEO. W. COFFIN,
Land Agent.

APPENDIX, No. LII.

VOTE

OF

THE HOUSE OF REPRESENTATIVES

OF

THE STATE OF NEW HAMPSHIRE,

IN

RELATION TO THE LINES BETWEEN THAT STATE AND THE COMMONWEALTH OF MASSACHUSETTS, AND THE PROVINCE OF MAINE.—7th FEBRUARY, 1789.

John Bell, Governor of the State of New Hampshire, to all who shall see these presents—Greeting:

Know Ye, That Richard Bartlett, whose official certificate is borne on the paper hereunto annexed, is Secretary of the said State, duly constituted and sworn, and that to his Acts and Attestations, as such, full Faith and Credit are, and ought to be, given, in and out of Court, within and out of the State.

Appendix.
No. 52.
Vote of N. Hampshire respecting the lines between that State, Massachusetts, & Maine.

In testimony whereof, I have caused the Seal of the State to be hereunto affixed. Given under my hand, at Concord, this twenty-sixth day of September, in the year of our Lord, one thousand eight hundred and twenty-eight, and in the fifty-third year of the Independence of the United States of America.

[L. S.]

JOHN BELL.

STATE OF NEW HAMPSHIRE.

IN THE HOUSE OF REPRESENTATIVES, FEBRUARY 7TH, 1789.

Voted, That the Honorable John Sullivan, Ebenezer Smith, Nathan Hoit, Joseph Cram, and Jeremiah Eames, Esquires, be, and they hereby are, appointed a Committee to ascertain the unlocated lands within this State, by running the line between this State and that part of the Commonwealth of Massachusetts formerly called the Province of Maine, and the line between the northerly part of this State and the Province of Canada, and return a descriptive plan thereof.

Sent up for concurrence.

THOS. BARTLETT,

Speaker.

In Senate, same day, read and concurred.

J. PEARSON,

Secretary.

A true copy of the original; examined September 26, 1828.

RICHARD BARTLETT,

Secretary of State.

APPENDIX, No. LIII.

EXTRACTS

FROM

THE REPORT OF THE BRITISH COMMISSIONER.

UNDER THE 5TH ARTICLE OF THE TREATY OF GHENT.

Whereas the following boundary has been claimed on the part of his Britannic Majesty, before the said Commissioners, as the boundary of the United States truly intended in the second article of the said treaty of Peace of 1783, and referred to in the fifth article of the said treaty of Ghent, namely, "that the north-west angle of Nova Scotia should be ascertained and determined to be situate at or near Mars Hill, and to be formed by the intersection of a line drawn due north from the source of the River St. Croix with a line running from the north-westernmost head of Connecticut River along the highlands which divide the rivers that fall into the Atlantic Ocean, from those which fall into the River St. Lawrence: that is to say, along the highlands which divide the rivers Chaudiere and De Loup, falling into the River St. Lawrence, from the rivers Androscoggin, Kennebec, and Penobscot, falling into the Atlantic Ocean; such line being continued along the highlands in that quarter, in such manner as to leave all the sources of all the branches of the said rivers Androscoggin, Kennebec, and Penobscot, south of such line, and within the territories of the United States, until it meets the said line drawn due north from the source of the River St. Croix at or near Mars Hill, as aforesaid: And that the north-westernmost head of Connecticut River should be ascertained and determined to be at the source of the north-westernmost stream falling into the uppermost or third lake delineated on the said map of the said River, laid down from the exploring survey thereof, as herein before mentioned; the said river being the only river ever known or called by the name of Connecticut, along the middle of which the boundary line is to run, from its said north-westernmost head to the point where the forty-fifth degree of north latitude, as lately ascertained by the astronomers as aforesaid, strikes the said River Connecticut, and thence due west on the line of the said latitude to the point whence the said line of latitude has also been lately ascertained, by the said Astronomers as aforesaid, to strike the River Iroquois or Cataraguy." That part of the same boundary, thus claimed on the part of His Majesty, which extends from the north-west angle of Nova Scotia to the north-westernmost head of Connecticut river, being marked on the said map M, with a red line.

Appendix.
No. 53.

Extracts from the
Report of the British
Commissioner
under the Fifth
Art. of the Treaty
of Ghent.

First Extract

Therefore, the said Thomas Barclay, the said Commissioner on the part of His Britannic Majesty, in conformity with the provisions in that behalf of the said fifth article of the treaty of Ghent, now proceeds to make the following Report, as well to the Government of His Britannic Majesty, as to that of the United States of America:

Second Extract

The question which has been first considered in point of order throughout these discussions, is that relating to the north-west angle of Nova Scotia, designated and described in the treaty of 1783 as the commencing point of the boundaries of the United States.

Appendix.
No. 53.

Extracts from the
Report of the British
Commissioner
under the 5th Article
of the Treaty
of Ghent.

Second Extract.

In the discussion of this question, the Agent of the United States produced in evidence the proclamation of His late Majesty, King George the Third, dated on the 2d day of October, 1763, establishing, among other things, the boundaries of the Province of Quebec, and adverted more than once to this proclamation, as confirmatory of the claim exhibited by him on this occasion on the part of the United States; inferring therefrom, that there existed, anterior to the treaty of 1783, a known north-west angle of Nova Scotia, similar in locality to the one now claimed on the part of the United States. The undersigned Commissioner therefore thinks it proper to state, in the outset, that although by the proclamation of 1763 certain highlands were described as forming the Southern boundary of the Province of Quebec, to which boundary the then Provinces of Nova Scotia and of Maine extended in a northern direction, yet that the existence and situation of these highlands were altogether uncertain, and this boundary remained altogether undefined and unsettled at the time of the treaty of 1783. The north-west angle of Nova Scotia is therefore not referred to in the treaty, as a well known and fixed limit, as is the River St. Croix, a part of the Eastern boundary of the United States therein described; but, in order to prevent future disputes, the mode of forming this angle is expressly pointed out in the treaty itself. Doubts having arisen with regard to the River St. Croix truly intended in the treaty of 1783, these doubts have since been settled by Commissioners appointed by the two Governments under the fifth article of the treaty of 1794, who formed their decision upon evidence adduced before them of the river anciently designated and uniformly known by that name.

But with regard to the present question, the undersigned Commissioner fully concurs in the correctness of the sentiments of the Agent of the United States, under the above mentioned article of the treaty of 1794, the late Mr. Sullivan, who, in passages of his arguments on that occasion, quoted by His Majesty's Agent in the course of these discussions, expresses himself as follows:

“The highlands had in the year 1763 been made the boundary of Quebec, or the “Lower Canada boundary, but where the boundaries or highlands are, is yet resting on “the wing of imagination,” and “the point of the locality of the north-west angle is “to be the investigation of the next century.”

The undersigned Commissioner is thus entirely of opinion that the point designated, in the treaty of 1783, as the north-west angle of Nova Scotia, is to be ascertained and determined solely by a reference and attention to the provisions of that treaty, and to the declared views and intentions of the framers of it.

Third Extract.

From the arguments of the Agents of both nations, and the evidence produced in support of them, copious extracts of which have place in this report, and in the appendix which accompanies it, the undersigned Commissioner considers the following results to be evident:

1st. That the north-west angle of Nova Scotia, agreeably to the fair construction of the treaty of Peace of 1783, and of the treaty of Ghent in 1814, is situate at Mars Hill, the first highland which the due north line from the source of the River St. Croix encounters, distant about 40 miles from the source of the said river St. Croix; and that the line extending thence along the highlands, in a westerly direction, described by the red line on the general map made by his Majesty's principal Surveyor, does divide, as directed in and by both those treaties, the rivers which empty themselves into the river St. Lawrence, from those which fall into the Atlantic Ocean; thus in every particular satisfying the words of the above named treaties, and corresponding with the obvious intentions of the Framers of them. In proof of this, the undersigned Commissioner begs leave to refer to the reports, (contained in the appendix to this report,) of William F. Odell, His Majesty's principal Surveyor, and of Mr. Campbell, Mr. Carlile, and Mr. Loss, Deputy Surveyors, and of Doctor Tiarks, His Majesty's Astronomer, which he considers full and satisfactory; and the more so, as no evidence

has been offered on the part of the United States, to rebut, or deny, the truth of these reports. Appendix.
No. 53.

2dly. That it was not contemplated nor intended by the Framers of the Treaty of 1783, that the due north line from the source of the river St. Croix should extend beyond the River St. John, but that the north-west angle would be found, and was to be established, as will appear in the sequel of these remarks, at some point of highland between the river St. Croix and the river St. John.

3dly. That the extension of the due north line from the source of the river St. Croix to Beaver Stream, claimed on the part of the United States as the north-west angle of Nova Scotia, does not agree with the description contained in either of the said Treaties. That it is unsupported by any evidence, and manifestly contrary, not only to the intentions of the Framers of the Treaties, but to the repeated instructions of the American Congress to its Ministers, on the subject of the Treaty they were directed to conclude between His Britannic Majesty and the United States of America. These two last propositions will now be considered under the same head.

The extension of the due north line beyond the river St. John, does not agree with the words of either of the said treaties, which direct, that the due north line from the source of the River St. Croix shall extend to the highlands, evidently meaning the *first* highlands, corresponding with the subsequent description, at which that line should arrive; for if the Framers of the treaty had other highlands in contemplation, further north, they would have excluded the first highlands by an express exception of them.

Both these treaties designate the particular rivers which are to be divided by the highlands, (or the west line) from the north-west angle of Nova Scotia to the Connecticut River; namely, those that empty into the River St. Lawrence, and those which fall into the Atlantic Ocean; and the whole of these rivers, from their sources, are to be thus divided. No mention is made, that this due north line from the source of the river St. Croix to the Highlands, shall or will, or possibly may, intersect any river, and by such intersection so divide such river as to allot one part of it, and the circumjacent territory, to the United States, and leave the remainder within His Majesty's Territories. By extending the due north line, as suggested on the part of the United States, to Beaver Stream, the river St. John, which falls into the Bay of Fundy, and the River Restigouche, which falls into the Gulph of St. Lawrence, are intersected, and by this means all the lands south-west of this intersection fall within the limits of the United States, which certainly was not in the contemplation of the Framers of the Treaty, nor of Congress itself, as the undersigned Commissioner believes will appear in a subsequent part of these remarks.

The Agent of the United States, in order to establish his position, that the north-west angle of Nova Scotia is at Beaver Stream, commences his argument with a geographical description of Continents and Ocean, designating Rivers, Bays, and Gulfs, the first of which he includes within the limits of a Continent, and the two latter he states to be part of the Ocean; and he adds that the Framers of the said Treaties intended to include the rivers St. John and Restigouche in the number of rivers which fall into the Ocean: upon the principle that the Bay of Fundy and Gulf of St. Lawrence are parts and parcels of the Atlantic Ocean.

The undersigned Commissioner admits that the above definition of the American Agent, taken in its most extensive signification is correct; still he is satisfied that this definition is controlled, (as definitions frequently are,) by distinctions and exceptions which take it out of the common rule. Bays and Gulfs are arms of the Sea; specific names are given to such Bays and Gulfs, when of magnitude, to distinguish them from the great body of water of which they form a part. Throughout the Treaty of 1783, the distinction is kept up between the Atlantic Ocean and the Bay of Fundy. As the

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Third Extract.

Appendix. various instances of this distinction are particularly noticed in the argument of His Majesty's Agent, the undersigned Commissioner will not repeat them.

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Third Extract.

He begs leave, however, to state one, which has escaped the attention of the British Agent. The following is the last sentence in the 2d article of the Treaty of 1783.

"East by a line to be drawn along the middle of the river St. Croix from its mouth in the *Bay of Fundy* to its source; and from its source directly north to the aforesaid highlands, which divide the rivers which fall into the Atlantic Ocean from those which fall into the River St. Lawrence, comprehending all Islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid boundaries of Nova Scotia on the one part, and East Florida on the other, shall respectively touch the *Bay of Fundy* and the *Atlantic Ocean*, excepting such Islands as now are, or heretofore have been, within the limits of the said Province of Nova Scotia."

Now, if the words *Bay of Fundy* were not intended to be used in contradistinction to those of *Atlantic Ocean*, why were they adopted in this part of the article?

The Agent of the United States attempts, by anticipation, to answer the question, by saying "that as the River St. Mary's did not empty into a Bay or Gulf, but directly into the Atlantic Ocean, and as the River St. Croix did fall into the Bay of Fundy" (a part as he insists upon it, of the Atlantic Ocean) "it became necessary, in establishing these boundaries with regard to Islands within twenty leagues of the shores of the United States, to use the words *Bay of Fundy* and *Atlantic Ocean*."

The undersigned Commissioner is of opinion, that the words *Bay of Fundy*, in this last sentence of the 2d article of the Treaty of 1783, are superfluous, admitting the argument of the American Agent to be correct; because if under the words *Atlantic Ocean*, the *Bay of Fundy* is intended to be included, the intent would be equally evident, and certainly more correctly expressed, by omitting the words *Bay of Fundy*.

The following contrast will evince the truth of this observation.

The words of the treaty of 1783: "comprehending all Islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due East from the points where the aforesaid boundaries between Nova Scotia on the one part, and East Florida on the other, shall respectively touch the Bay of Fundy and the Atlantic Ocean."

The words of the Treaty of 1783, omitting the words "Bay of Fundy:" "comprehending all Islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due East from the points where the aforesaid boundaries between *Nova Scotia on the one part, and East Florida on the other*, shall respectively touch the Atlantic Ocean."

In the extract from the 2d article of the Treaty of 1783, immediately before recited, the words *Bay of Fundy* are used, and were evidently intended, to be placed in contrast to the words *Atlantic Ocean*. The Framers of the Treaty invariably kept up the distinction, and in no one instance is there an expression in the Treaty which can justify the construction, contended for on the part of the United States, that in and by the words *Atlantic Ocean*, the Rivers which empty into the Bay of Fundy and Gulf of St. Lawrence were intended to be included. Had the River St. John and the River Restigouche been intended to be included in the description of Rivers which fall into the Atlantic Ocean, is it not more than probable, that those rivers would have been particularly described and named, as having their mouths in the Bay of Fundy and Gulf of St. Lawrence, but ultimately emptying into the Atlantic Ocean. The River St. John in particular, about which so much had been said by the different Ministers who framed the Treaty, and which river had been proposed as a part of the Boundary which was to limit the United States to the North-East.

Had the words *Bay of Fundy* and Gulf of St. Lawrence not been used in the Treaty, there might have been some grounds for the American Agent to rest his ar-

gument upon, that this Gulf and that Bay were meant to be included in the more comprehensive words *Atlantic Ocean*, but this is not the case. His reasoning on this is in point, however, with respect to the Bays of Penobscot and Sagadahock, of which no mention is made in the treaty, nor are even the Rivers Penobscot and Kennebec named therein; hence it is evident that these unnamed rivers were those intended to be described by the words "those which fall into the Atlantic Ocean."

Appendix.
No. 33.

Extracts from the
Report of the French
Commissioner
under the 5th Article
of the Treaty
of 1763.

Third Extract

It is obvious that the words "Highlands which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean," used in the said 2d article of the treaty of 1763, were taken from the proclamation of His Majesty of the 7th of October, 1763, in which the boundaries of the Government of Quebec, in that quarter which relates to the present subject, are described as commencing at the 45th degree of north latitude, on Lake Champlain, and "passes" (in a North Easterly direction) "along the highlands which divide the Rivers that empty themselves into the said River St. Lawrence from those which fall into the Sea;" but in the treaty of 1763 the Boundary of the United States of America commences, "from the north-west angle of Nova Scotia, to wit: that angle which is formed by a "line drawn due north from the source of St. Croix River to the highlands, along the "said highlands which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean." This change of order in describing the Boundaries, while it cannot alter their courses or distances, materially affects the descriptive part of them, and might mislead a person not fully master of the subject.

This will appear evident by an examination of the general map exhibited on the part of His Majesty, and even on the general map on the part of the United States, objected to for incorrectness in other parts of it. Both these maps represent the highlands mentioned in the Proclamation of 1763, and in the Treaty of 1763. If the description in the Proclamation is taken, it will be seen that the Highlands named therein do divide the Rivers therein mentioned, almost at the very commencement of those Highlands, on the East side of Connecticut River, and that the sources of those rivers, so to be divided, lay within a very narrow space of each other, to wit: the Rivers Chaudiere and Du Loup, and the Rivers Androscoggin, Penobscot, and Kennebec.

The contiguity of the sources of these rivers each to the other, and their taking such opposite direction, to unite with the Ocean, and their being thus divided, or separated, by conspicuous Highlands, render the description used in the proclamation and in the treaty, particularly applicable. There is this difference, however, between the description in the Proclamation and in the Treaty; that what was first described and first in situation, in the Proclamation, is last in the Treaty. The highlands which divide the Rivers, so described to be divided, are near the Connecticut River, and distant from the due north line from the source of the River St. Croix: but Mars Hill is the highland which the due north line first meets, from which Hill there is a continuation of Highlands, among which those Highlands spoken of in the Proclamation are to be found, and which form a part of those Highlands named in the Treaty.

It is obvious that the order of description in the Treaty of 1763, was reversed from the Proclamation, its prototype, and hence arises the error of the Agent on the part of the United States, who contends that the due north line from the source of the River St. Croix, is to be extended until it arrives at Highlands which divide the Rivers, &c. &c. &c.

But this is not the fact; the words of the Treaty are, "due north from the source of "the St. Croix River to the Highlands, along the said Highlands which divide those "Rivers," &c. &c. &c.

Now what does the word *along* in its ordinary signification import? Certainly a continuation of those Highlands, in which continuation will be found Highlands which divide the Rivers, &c. &c. &c.

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Indeed the word *along*, used in the Treaty of 1783, is, in this instance synonymous with the word *passing* in the Proclamation.

Had the Highlands to be met with on the due north line been intended to be those which divide the Rivers, the words of the Treaty would have been; "due north from the source of the St. Croix River to the *Highlands* which divide those Rivers which empty themselves into the St. Lawrence from those which fall into the Atlantic Ocean."

The reverse is the case; the due north line is to stop at the Highlands, and from thence a second line is to commence, (which two lines form the north-west angle of Nova Scotia,) and proceed in a westerly direction *along* or *passing* those Highlands which divide the Rivers, &c. &c. &c.

It is apparent on the face of the general map, that the line claimed on the part of his Majesty, the red line, from Mars Hill to the north-westernmost head of Connecticut River, is nearly straight; while the line, a blue line, claimed on the part of the United States, winds and changes its course in a variety of directions, and from its being extended so far north, in order to embrace the River St. John and Restigouche, it becomes eventually necessary to change its course South, and in a part of it even to the Eastward of South; and this for no other purpose, as it regards the extension of the due north line, than to include within it these two last named Rivers; for the American Agent has expressly acknowledged in his argument, that unless the Rivers St. John and Restigouche are decided to be part of the rivers which fall into the Atlantic Ocean, the American claim falls to the ground.

Again it is pre-requisite to have it proved that the members who composed the American Congress, from the year 1779 to the year 1782, and not only the American Ministers Plenipotentiary, but also those of His Majesty, were deficient in common sense, and devoid of forethought and reflection, before we can admit that they, or any of them, contemplated that the due north line from the source of the River St. Croix, was to be extended over, and beyond, the River St. John; nay that it was to, or might be extended upwards of sixty miles north of that River, before it arrived at the Highlands forming the north-west angle of Nova Scotia.

The undersigned Commissioner finds this remark on the following reasons, and the evidence in support of them. Had such an extent of the due north line, from the source of the River St. Croix, been intended by Congress, or by the American Plenipotentiaries, neither of them would have proposed that "the middle of the River St. John, from its source to its mouth in the Bay of Fundy," should be the boundary which was to divide that part of the United States, from the remaining part appertaining to His Majesty; thereby accepting, nay voluntarily offering, "in limine," to accept a lesser extent of Country for a greater. In like manner, had His Majesty's Plenipotentiaries conceived by the words proposed to be used in the 2d Article of the Treaty of 1783, that the due north line would, or by any possibility might, extend sixty or seventy miles north of the River St. John before it arrived at the Highlands, they most assuredly would have acceded to the first proposal of the American Plenipotentiaries to make the River St. John the dividing boundary in that quarter, thereby preserving to His Majesty all the territory North and East of that River. In confirmation of this, the undersigned Commissioner has had the general map, which accompanies this report, carefully examined by Dr. Tiarks, His Majesty's Astronomer, who has reported as follows: "There are contained, from the intersection of the River St. John, by the due north line to its mouth, along the coast to the River St. Croix, and from the mouth of the River St. Croix to its source, thence along the north line to its intersection with the said River St. John, - - - square miles 4106
"From the British line from Mars Hill, in a westerly direction, to
"its junction with the American line, thence to the source of the
"River St. John and down the River to its intersection with the
"north line, thence along this line to Mars Hill, about - - - square miles 5592

* From the River St. John from its intersection with the north
 "line to its source, thence to the junction of the two Lines, as re-
 "spectively claimed by each nation, along the American Boun-
 "dary line to Beaver Stream, and thence along the north line to
 "its intersection with the River St. John, about - - - square miles 5513

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 No. 53.

Extracts from the
 Report of the Brit-
 ish Commissioner
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Third Extract.

"Territory in dispute, - - - - - square miles 19705
 "Territory which the United States would have gained, if the
 "River St. John from its source to its mouth had been the bounda-
 "ry line of the two nations, - - - - - square miles 4106
 "Territory which the United States now claim beyond the River
 "St. John, - - - - - square miles 5113
 "Territory which the United States will gain by their present
 "claim, beyond the Territory which would have accrued to them
 "by the River St. John being made the Boundary, as originally
 "proposed by Congress, - - - - - square miles 707

Any remark upon this statement of His Majesty's Astronomer is unnecessary.

The American Plenipotentiaries were instructed by Congress to endeavour to obtain the River St. John, from its mouth in the Bay of Fundy to its source, as the eastern line which was to divide the United States from Nova Scotia and Canada. Mr. Adams, one of the American Plenipotentiaries, in his deposition, states, "that one of the American Ministers proposed the River St. John to be the line abovementioned, but his colleagues observing that as St. Croix was the River mentioned in the Charter of Massachusetts Bay, they could not justify insisting on St. John, as an ultimatum, he agreed with them to adhere to the Charter of Massachusetts Bay." From this testimony it is evident, that the American Ministers agreed to relinquish all claim to the middle of the River St. John, and to accept a more southern boundary, to wit: the River St. Croix at or near its source. Now if the claim of the United States to the middle of the River St. John, from its mouth to its source, *could not be justified*; and we are bound to believe this, as the evidence is derived from the American Minister "a fortiori;" a claim extending over, and sixty-six miles beyond, that River, *cannot be justified*. From the current of Mr. Adams' testimony it is apparent, that the American Plenipotentiaries accepted a more contracted limit, than the River St. John, for the north-eastern boundary of the United States.

Had Congress, or the American Ministers who framed the Treaty of 1783, considered it possible, that the due north line from the source of the River St. Croix, in its course to the Highlands, might extend to Beaver Stream, or even so far north as only to cross the River St. John and Restigouche, whereby, as has before been remarked, a large portion of territory to the south-west of this due north line would fall within the limits of the United States, is it to be believed that, under such an impression, Congress would not have instructed its Ministers, or that those Ministers would not have had the precaution, to have a clause inserted in the treaty, that, in such an event, the citizens of the United States should be allowed to navigate such parts of the Rivers St. John and Restigouche as lay within His Majesty's Territory, to wit: from the line of intersection of those Rivers, to their mouths in the Bay of Fundy and *Gulf of St. Lawrence*? Can the right to take Fish in the Gulf of St. Lawrence bear any comparison with the free use of the waters of the Rivers St. John and Restigouche? Unquestionably not. Still, with regard to this right to take Fish in the Gulf of St. Lawrence is, we perceive the prudence and good sense of the American Ministers led them to secure it, by express words in the Treaty of 1783, while not a word is said with regard to the rights of the citizens of the United States to the use of such parts of the abovementioned Rivers, as were comprehended within His Majesty's Territories.

Upon a view of the whole matter, the undersigned Commissioner on the part of His Britannic Majesty, after a full consideration of, and deliberation upon, the arguments

Appendix.
No. 57.

Extracts from the
Report of the Brit-
ish Commissioners
under the 6th Arti-
cle of the Treaty of
Ghent.

Third Extract.

of the Agents of the respective Governments, upon the subject of "that point or the highlands laying due north from the source of the River St. Croix, and designated in the former Treaty of Peace between the two powers as the north-west angle of Nova Scotia," being the first point to be ascertained by the present Commissioners under the fifth article of the Treaty of Ghent, is of opinion, that, consistently with a due regard to the obvious meaning of the plain and intelligible words made use of by the framers of the said former treaty of peace, between the two powers, to express their intentions on this point, and consistently with the geographical distinctions so carefully made by them between the different places alluded to, in their designation of the boundaries of the United States, neither the waters of the River Restigouche, nor the waters of the River St. John, can be considered, within the meaning of the treaty, as falling into the Atlantic Ocean, and that the point of the highlands lying due north from the source of the River St. Croix, and designated in the former treaty of Peace between the two Powers as the north-west angle of Nova Scotia, is that point which intersects the Highlands at or near the mountain or hill called Mars Hill; and is distant about forty miles, on a line due north, from the source of the River St. Croix.

And the undersigned Commissioner on the part of his Britannic Majesty is further of opinion, that if any doubt could remain upon this subject, it must be entirely removed by the full, complete, and satisfactory evidence, arising out of the testimony of Mr. Adams, one of the Ministers on the part of the United States that negotiated the said former treaty of Peace, and out of the journals of the Congress of the United States, in their instructions to the negotiators of the treaty on their part, and out of the expressions of the treaty itself.

Fourth Extract.

The undersigned Commissioner has thus stated, in detail, the grounds upon which the Agents of the two Governments have endeavoured to support their claims to the points respectively claimed by them, as the North-westernmost head of Connecticut River, respecting which he has declared it to be his opinion that this point is situate at the head of the north-westernmost brook or stream which empties into the third lake of Connecticut River, north of the forty-fifth degree of north latitude. The Commissioner on the part of the United States having declared it to be his opinion that the North-westernmost head of Connecticut River ought to be established at the head of the west branch of Indian Stream; but not having stated any particular principle upon which this opinion has been formed, which will probably be done in the report to be made by him to the two Governments agreeably to the provisions of the treaty in this regard, the undersigned Commissioner feels it to be his duty, in this place, briefly to revert to the principles upon which, among other considerations so strongly enforced by his Majesty's Agent, his own opinion upon this point has been formed, which are the following, viz:

I. The north-western brook falling into the third lake is the only head which can be truly said to be the *north-westernmost head* of that River, which, in its whole extent, is called Connecticut River.

II. This head is the only one from which a line can be drawn down along the middle of Connecticut River, to the forty-fifth degree of north latitude, in conformity with the provisions of the treaty of Peace of one thousand seven hundred and eighty-three.

III. There being two branches east of this main branch, and numerous heads, its designation as the *north-westernmost* is thus perfectly and naturally accounted for.

IV. Although it is admitted that this head is not the north-westernmost water tributary to Connecticut River, above the forty-fifth degree of north latitude, nevertheless there is no evidence before the Commissioners, which is such north-westernmost water, whether Leach's Stream, Hall's Stream, or Indian Stream, or some one of the branches of one of these streams: although the probability is, if any reliance at all can be placed upon the reports and plans of the exploring surveys in this regard, that such north-westernmost water is Hall's Stream, or one of its branches.

V. Neither Hall's Stream nor any of its branches can be the river the north-westernmost head of which can be called the north-westernmost head of Connecticut River, intended by the treaty of peace of 1783. *Appendix. No. 53.*

1. Because a line down along the middle of that stream, or of either of its branches, would not be a line down along the middle of Connecticut River; and therefore would not be in conformity with the provisions of the treaty of 1783. *Extracts from the Report of the British Commissioner under the 5th Article of the Treaty of Ghent.*

2. Because Hall's Stream has always been distinguished from Connecticut River, having always had a different name, by which it has been known before and from the time of the survey, in 1772. *Fourth Extract*

3. The circumstance that the line of the 45th degree of north latitude was, by the Framers of the Treaty of 1783, *supposed* to cross Hall's Stream, shewed clearly by their intention in this regard, this *supposed* line crossed Hall's Stream at some distance before it struck Connecticut River: as the line along the highlands was to extend to the north-westernmost head of Connecticut River, and thence down along the middle of that river to the forty-fifth degree of north latitude, it is evident that a head of a river called, at the point of its intersection with the forty-fifth degree of north latitude Connecticut river, was contemplated, which could not be the case with Hall's Stream, this being known exclusively by this name.

4. Neither Indian Stream nor any of its branches can be the river the north-westernmost head of which can be called the north-westernmost head of Connecticut River, intended by the treaty of Peace of 1783.

1. Because a line drawn along the middle of that stream, or of either of its branches, would not be a line drawn along the middle of Connecticut River; and therefore would not be in conformity with the provisions of the treaty of 1783.

2. Because Indian Stream never has been known by the name of Connecticut River, but on the contrary has always been distinguished therefrom by a particular well known name.

3. It is much narrower and has much less water than Connecticut River, with which it mingles its waters, and the appellation of stream, so invariably given to it, is indicative of this inferiority in size: the other having been always called a river, and eminently the *Connecticut River*.

4. If it should be considered a matter of any moment, there is so far from being any evidence that this stream, or either of its branches, is the north-westernmost water tributary to the Connecticut above the forty-fifth degree of north latitude, that there is a violent presumption that this is not the case.

5. There is no reason whatever, to be derived from the situation, size, or any other quality of this stream, why the single circumstance of its being more north west than the real Connecticut River, should be considered as any evidence that this is the River Connecticut designated in the treaty; on the contrary, being neither the north-westernmost water tributary to that river, nor the north-westernmost head of that river, it has none of the characteristics required by the provisions of the treaty of Peace of 1783.

The undersigned Commissioner on the part of His Britannic Majesty, comes now to the consideration of the only remaining part of the boundary included in the present commission, namely, a line "down along the middle of Connecticut River to the "forty-fifth degree of north latitude, from thence by a line *due west on said latitude* "until it strikes the river Iroquois or Cataraquy," respecting which the fifth article of the Treaty of Ghent, under which this commission is instituted, having declared that "that part of the boundary line between the dominions of the two powers which extends from the source of the river St. Croix, directly north to the north-west angle "of Nova Scotia, thence along the said highlands which divide those rivers that empty "themselves into the River St. Lawrence from those which fall into the Atlantic "Ocean, to the north-westernmost head of Connecticut River, thence down along the "middle of that river, to the *forty-fifth degree of north latitude*, thence by a line

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Fourth Extract

Fifth Extract

Appendix. “*due west on said latitude* to the River Iroquois or Cataraguy, has not yet been surveyed,” proceeds to declare that it is agreed, that for *the several purposes* mentioned in the preceding part of the article, “two Commissioners shall be appointed, sworn, and authorized to act, exactly in the manner directed with respect to those mentioned in the next preceding article of the treaty, unless otherwise specified in the said fifth article.” It is then provided in the same article, “that the said Commissioners shall cause the boundary aforesaid, from the source of the River St. Croix to the River Iroquois or Cataraguy, to be surveyed and marked according to the provisions of the said treaty of Peace of one thousand seven hundred and eighty-three.”

Extracts from the Report of the British Commissioner under the 5th Article of the Treaty of Ghent.

Fifth Extract.

Sixth Extract.

The undersigned Commissioner of His Britannic Majesty, conceiving this part of the boundary of the United States, to be, of all others, so clearly designated in the treaty of Peace of 1783, that the Commissioners were not authorized to exercise any discretion respecting it, but merely to cause the same to be surveyed and marked, agreeably to the peremptory direction in that behalf in the fifth article of the treaty of Ghent, in conformity with the provisions of the said treaty of Peace, had not anticipated that there could be any difference in opinion between the Commissioners respecting it, nor that it could have been necessary to do more than express that opinion in the very words of the Treaty; but from the manner in which this part of the boundary has been claimed and discussed by the Agent of the United States, by which the conduct and proceedings of the Commissioners and of the Astronomers of both nations, as well as of His Majesty's Agent, have been, as the undersigned conceives, placed in an improper point of view: And the Undersigned having received a further communication on the part of the United States, intimating that it would not be necessary for him, the same Commissioner, to report any opinion on the questions which have been made relative to the boundary line from Connecticut river to the River Iroquois; (*a*) the undersigned Commissioner conceives it to be his duty to report as well to the Government of His Britannic Majesty, as to that of the United States, his opinion upon this last mentioned part of the boundary, as well for the reasons before stated, as upon the ground of the uncertainty of what the opinion of the Commissioner on the part of the United States may be in this regard; and at the same time to state in detail the grounds upon which his opinion has been formed respecting this as well as the other parts of the Boundaries of the United States, upon which the difference in opinion of the respective Commissioners on the part of the two Governments has been expressed; the opinion of the Undersigned being, that the point ascertained by Dr. J. L. Tiarks, His Majesty's Astronomer, on geographical principles, to be the forty-fifth degree of north latitude on Connecticut River, is the point which ought to be established as the said forty-fifth degree of north latitude on the said River; and that the line due west on said latitude to the River Iroquois or Cataraguy should be surveyed, and marked upon ordinary geographical principles, the several points or stations near the said line, of which the latitude has been ascertained by the Astronomers under the present Commission, as herein before detailed, being made the foundation or basis of such survey of the said line due west on the said degree of latitude.

THO. BARCLAY,

His Britannic Majesty's Commissioner—5th Article Treaty of Ghent.

UNITED STATES OF AMERICA,
New York, 13th April, 1822.

(*a*) The following is a copy of this communication.

“The Honorable THOMAS BARCLAY.

“DEAR SIR: Yours of the 23d of October has been duly received: I have concluded that it will not be necessary for me to report any opinion on the questions which have been made relative to the boundary line from Connecticut River to the River Iroquois. I intended to have made this communication sooner, but have been unavoidably prevented doing this before.

“I am, very respectfully, your obedient servant, [Signed.] “C. P. VAN NESS.”

APPENDIX, No. LIV.

EXTRACTS

FROM THE

REPORT OF C. P. VAN NESS,

ONE OF THE COMMISSIONERS APPOINTED UNDER THE FIFTH ARTICLE OF THE
TREATY OF GHENT.

The questions in controversy have been discussed by the respective Agents at great length, and with extraordinary ability. But it will not be necessary for me to notice the arguments in detail, nor to enter into a particular examination of the evidence which has been produced. It will be considered sufficient briefly to assign some of the reasons upon which my opinion is founded, and which appear to me to be beyond the control of any questionable or contradictory testimony that may have appeared in the case.

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First, I will consider the question as to the north-west angle of Nova Scotia. The Agent of the United States contends for the establishment of that point, at a place about one hundred and forty-four miles north of the source of the River St. Croix, and about sixty-six miles north of the River St. John; which place is in the tract of country dividing the waters that run into the River St. Lawrence from those which flow in opposite directions and fall into the sea. On the other hand, the Agent of His Britannic Majesty insists that it ought to be fixed at *Mars Hill*, which is about forty miles north of the source of the St. Croix, and about thirty-eight miles south of the River St. John, and of course about one hundred and four miles south of the place contended for on the part of the United States; and is between waters emptying into the River St. John.

The treaty having described the angle in question as formed at the Highlands therein mentioned, and it having been questioned what particular Highlands were intended, it becomes important here to ascertain that point. The description in the treaty says, "that angle which is formed by a line drawn due north from the source of the St. Croix River to the Highlands," without saying what Highlands; but it immediately proceeds, "along the *said* Highlands which divide those Rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River;" thus clearly designating the Highlands along which the line is to continue, and calling them the *said* Highlands; so that by a direct reference, the same designation is attached to the Highlands first named. And in the latter part of the description, the line from the source of the St. Croix to the Highlands at which the angle must be formed, is again mentioned as follows: "East by a line to be drawn along the middle of the River St. Croix, from its mouth in the Bay of Fundy to its source, and from its source directly north to the aforesaid Highlands which divide the Rivers that fall into the Atlantic Ocean, from those which fall into the River St. Lawrence."

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It appears evident to my mind, both from the plain sense and the strict letter of the treaty, that the framers of that instrument intended that the line commencing at the source of the St. Croix should proceed due north, until it should reach those Highlands which divide the Rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean. There is no foundation, therefore, in my opinion, on any reasonable construction that can be applied to the treaty, for the argument which has been pressed before the Board, that the Highlands to which the line is to extend from the source of the St. Croix, and at which the point in question is to be fixed, are to be the first Highlands, of whatever description, at which the line will arrive in its due north course, or that they can be any other than those which divide the waters falling into the River St. Lawrence from those which fall into the Atlantic Ocean.

But it is contended by His Majesty's Agent, that giving this construction to the treaty it is incapable of execution. This argument is attempted to be supported on the ground that the Bay of Fundy is not a part of the Atlantic Ocean; consequently that the Rivers St. John and St. Croix, which have their mouths in that Bay, do not fall into the Atlantic Ocean, and that therefore there can be no Highlands due north from the source of the St. Croix, which, at that point, divide waters running into the River St. Lawrence from others falling into the Atlantic Ocean; there being no waters of the latter description in that direction to be divided. Before I enter into an examination of this argument I will, for a moment, inquire what will be the result, admitting the premises assumed in this regard to be correct.

His Majesty's Agent fully agrees with the Agent of the United States, that the Highlands which divide the Rivers Chaudiere and De Loup, emptying themselves into the River St. Lawrence, from the Rivers Kennebec and Penobscot, falling into the Atlantic Ocean, as far as they form that division, answer the description in the treaty, and are the Highlands truly intended. And in order to form the angle on his plan, he declares that the words of the treaty are evidently to be understood as intending that the north line should terminate whenever it reached the Highlands which in any part of their extent divided the waters mentioned in the treaty. Thus acknowledging that the same Highlands which divide the Chaudiere and De Loup from the Kennebec and Penobscot, are in their extension eastwardly to be intersected by the line due north from the source of the St. Croix, but denying to them the same *description* at the point of intersection. We are brought then by His Majesty's Agent, on his own principles, to the simple question whether these Highlands, so extended, are situated above or below the sources of the St. John, or in other words, on the north or the south side of that River.

It is insisted that the north line must stop at *Mars Hill*, because, it is said that hill "appears to be connected by broken ridges with the mountains near the sources of the Penobscot." Such a boundary, it is declared, will actually comport with the terms of the treaty, and will at the same time leave to His Majesty the whole of the River St. John and its sources, which, it is asserted, must have been the object of the framers of the treaty.

The Highlands to be extended, we have seen, divide waters running into the River St. Lawrence from waters running in an opposite direction, and falling into the Atlantic Ocean. And as it appears that in proceeding eastwardly in the direction of these Highlands, even to the sea coast, the waters continue to divide in the same way, on the one side running into the River St. Lawrence, and on the other side into the sea, or according to the distinctions insisted on, into the Atlantic Ocean, the Bay of Fundy, and the Gulph of St. Lawrence, does it not clearly follow that the extension or continuation of such Highlands is to be found between the sources of the waters thus continuing to flow in the same opposite direction? Can it be reasonable that *Mars Hill*, because it may "appear to be connected by broken ridges with the mountains

near the sources of the Penobscot," is rather to be considered such extension, so as to be eminently called the same Highlands, when these "broken ridges," if they actually exist, divide waters not running different ways, but flowing in the same direction? To establish the position that the Highlands which are fully recognised as dividing the Chaudiere and De Loup from the Kennebec and Penobscot, after having formed that division, proceed south of the St. John to *Mars Hill*, we are driven to the singular necessity of deciding that there are no Highlands which divide the numerous Rivers to the eastward of the Chaudiere and Penobscot, and which continue to flow in the same manner, viz: the Rivers Ouelle, Kamouraska, Verte, Trois Pistoles, Rimousky and Metis, falling on the one side into the River St. Lawrence, and the Rivers St. Croix, St. John, Miramichi, and Restigouche, falling on the other side into the sea. For if there are any Highlands of the latter description, they must, of necessity, be the proper extension or continuation of the former.

That there is a chain of Highlands extending from near the sources of Connecticut River, in a north-easterly direction to the sea coast, between the sources of the waters running as before mentioned, into the River St. Lawrence, and into the sea, can need no other proof than the fact that there are such waters. There is, therefore, no doubt in my mind, that even under this view of the case, the line going due north from the source of the St. Croix, must cross the St. John, and extend to or near the place designated for that purpose, by the Agent of the United States.

Before I proceed any farther, it may be proper to remark, that by *Highlands* I do not mean lands of any particular or peculiar elevation. I consider all lands that for any distance lay between the sources of waters running in contrary directions, as *Highlands*, with reference to such waters, and the general face of the country each way through which they have their courses. And this appears to be precisely the sense in which the term is used in the treaty. With these impressions, I consider all the evidence produced on both sides, as also the arguments in support of it, to shew where the most elevated lands or the highest mountains are situated, as of no importance whatever to the decision of the present question. Nor do I deem it in any wise material whether the sources of streams are found to exist both north and south of the precise point where the angle is formed, if they are found both eastwardly and westwardly of it, in such a manner as to indicate plainly the direction of the dividing Highlands; which appears to be the case in the present instance. Any argument therefore to be derived from a supposed slight variation of the line, already protracted due north from the source of the St. Croix, may be entirely laid out of the case.

On this subject, I view the following remarks of the Agent of the United States as unanswerable, and containing all that can be said: "If we leave the sources of the waters connected with the St. Lawrence, and proceed south of the sources of streams which fall into the Atlantic Ocean—Where shall we stop? Lands high or low in that direction may be said to divide the St. Lawrence from the Atlantic, and this holds true quite to the Atlantic coast; but they no longer divide the rivers that fall into the Atlantic from any other waters, since they are both encompassed and penetrated by the last mentioned Rivers. Nor can any portion of such lands be entitled to the distinction of forming the boundary more than another, since if we depart from the rule of discrimination afforded by the different sources, no new rule can be devised which does not apply equally to every elevation of land, until we arrive at the source of the St. Croix."

"The Highlands which divide the waters emptying into the Atlantic from those connected with the St. Lawrence, are those which, by separating them, leave the Atlantic streams on the one side, and the St. Lawrence streams on the other. This can hold true only of the lands lying between the streams whose contrary direction has already been described; and to depart from these lands, without a just necessity, would be as contrary to sound sense as to a fair construction of the instrument we

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are called to discuss. How such a necessity can exist is not easy to be perceived. That the lands to which we are now alluding are sufficiently elevated to be worthy the appellation of Highlands, is demonstrated, not only by the great length of the Rivers which run from them into the sea, but, if other demonstrations were wanting, by the evidence furnished by the Surveyors, before the Board. But it is particularly due north of the St. Croix that we are to look for the Highlands mentioned in the treaty, since here they are necessary to form the important angle in question. And here the evidence is most satisfactory. The River Metis is divided from the River Restigouche by lands more elevated than any other which exist between the Metis and St. Croix; so that it is not only the Highlands, but emphatically the highest land which divides the Rivers. If it were otherwise—if the lands between the Restigouche and Metis were not characterized by peculiar elevations compared with peaks or mountains which might exist in any other direction, still the argument in favor of their adoption as the true Highlands must remain unchanged. The word Highlands is not used merely to denote a single mountain, or even a continued unbroken range of mountains running in one direction, but generally to describe an elevated or mountainous region, of which the surface must necessarily be very unequal; such is commonly to be found in all sections of country in which numerous Rivers take their rise; and since the very principle of gravity demonstrates that the general elevation of the country is greater at the source of a River than at its outlet, the lands which separate Rivers running in contrary directions would naturally be considered as the Highlands which lay between, or divided them. Particularly as relating to a country the topography of which was not fully ascertained, a more definite description of such Highlands was hardly possible to be given. This is true not only of the lands between the Rivers at the point where the specified angle is formed, but also of all the lands lying between the Rivers running in contrary directions, throughout the whole line. Whenever these Rivers present themselves, we have to seek the lands placed directly between their waters, and these lands, whatever variety of elevation may exist among them as compared with each other, we may rest assured are, in relation to the general fall or average elevation of the country or the level of the sea, the elevated or Highlands dividing those waters; and since it is not consistent with reason to suppose that there should be sources of Rivers at every point throughout a long line, the protraction of such a line as shall intersect all lines drawn from the nearest sources of opposite rivers to each other, must be considered a line along the Highlands which divide them."

I will now enter upon the consideration of the main point relating to this part of the case. That is, whether the Bay of Fundy is a part of the Atlantic Ocean.

The following extracts from the memorials of His Majesty's Agent, will fully shew the foundation upon which his claim, in this respect, is predicated, and the substance of his arguments in support of it.

He says—"The first question that arises upon this part of the Boundary, is, what Rivers are to be thus divided? The answer is, that by the express terms of the treaty they are to be, first, the Rivers emptying themselves on one side into the River St. Lawrence to the *westward* of the meridian of the source of the River St. Croix; secondly, the Rivers falling on the other side into the Atlantic Ocean to the westward of the mouth of the same River St. Croix, in the Bay of Fundy; for as the boundary line was to proceed from its commencement at the River St. Croix *westward*, no Rivers falling into the Bay of Fundy eastward of the River St. Croix, could have come into the contemplation of the framers of the treaty; and it was evidently the true intent and meaning of the treaty to secure to the respective powers the sources of the Rivers emptying themselves or falling into their respective territories, the sources of these Rivers being the points at which, by the boundary line along the Highlands, they were to be divided, and the terms made use of in this regard in the treaty being so precise, viz: "*From the north-west angle of Nova Scotia along the Highlands*

which divide those Rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River." The Rivers here contemplated are evidently those Rivers, and those Rivers only, which empty themselves between these two points; which are the points, and the only points to be ascertained and determined by the present commission; and the line along the Highlands is evidently contemplated as dividing these Rivers, and securing to the United States the sources of those of them that fall into the Atlantic Ocean, and to His Majesty the sources of those of them that empty themselves into the River St. Lawrence."

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Again, he says—"We come now to a particular consideration of the River St. John. This River at its mouth where it empties itself into the Bay of Fundy, is sixty miles east of the mouth of the River St. Croix in the same Bay, which mouth of the River St. Croix is, as before observed, the easternmost boundary of the United States; and this being a fact well known at the time to the framers of the treaty, this River cannot be considered as one of the Rivers to be divided by the line along the Highlands, not only because evidently excluded, as not between the points above mentioned, limiting the extent within which the mouths of these Rivers were to be found, but because it empties itself, not into the Atlantic Ocean, as required by the terms of the treaty in this regard, but into the Bay of Fundy, which as has been observed already, is expressly named, and thereby separated and distinguished from the Atlantic Ocean, which distinction is again recognised between the Atlantic Ocean and the Bay of Fundy in the fourth article of the Treaty of Ghent, in which the Bay of Passamaquoddy is declared to be a part of the Bay of Fundy, and the Island of Grand Menan to be in the said Bay of Fundy, without any intimation that this Bay can be considered as a part of the Atlantic Ocean, within the meaning of either of the treaties between His Britannic Majesty and the United States. And from these considerations it is obviously, if not necessarily, to be inferred, that it is the true intention of the treaty to secure to His Majesty the source of this River, also as this as well as every other treaty ought to receive a liberal and equitable construction; and it must be therefore presumed that the intention was, in all instances, to give to the respective Governments the sources of the several Rivers, the mouths of which were clearly within their own territory; for no other way could this treaty have an equitable operation."

I am constrained to declare, that I have searched the treaty in vain for some expression to justify these assertions, or this reasoning. In what part of that instrument are to be found "*the express terms*" which declare that the Rivers to be divided are to empty themselves on the one side into the River St. Lawrence "*to the westward of the meridian of the source of the River St. Croix,*" and on the other side to fall into the Atlantic Ocean "*to the westward of the same River St. Croix in the Bay of Fundy?*" And where is it said, that "*the boundary line was to proceed from its commencement at the River St. Croix westward?*" The line from the source of the St. Croix to the Highlands, it is expressly declared, is to be a due north line, and it then proceeds along the same Highlands, and, of course, divides the Rivers falling each way, which have their sources along any part of its extent, without reference to the situation of the mouths of any such Rivers. It is merely, too, by way of description of the Highlands that any Rivers are mentioned in the treaty.

It is obvious that in arranging the boundaries of a country, it is often necessary to adopt straight and direct lines, without regard to the manner in which they may divide Rivers and Lakes; and the line from the St. Croix to the Highlands is not the only one of that sort in the boundaries of the United States. We know that the latitude line from Connecticut River to the River Iroquois or Cataraguy, crosses Lake Memphremagog, Lake Champlain, Chatauguy River, and Salmon River. But admitting that the parties to the treaty, in fixing on that portion of the boundary now under consideration, had in view the division of the Rivers entire, which are mentioned, it

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instance, it cannot lay the foundation for an utter disregard of the plainest rules of common sense. If the Highlands north of the St. John, which are designated by the Agent of the United States, are not the Highlands which divide the Rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, that settles the point, that the due north line is not to extend to them. But if they are truly those Highlands, then the north-line must reach them, no matter how many and what streams of water may be intersected by it, and regardless of the consideration whether the Rivers divided by the line along such Highlands will, in all cases, empty themselves within the territories of the same power, within whose dominions they may have their sources. All the assertions, therefore, of His Majesty's Agent, which have been so repeatedly made, that it was the intention of the treaty to secure to the respective powers the sources of the Rivers emptying themselves into their respective territories, are entirely foreign to the case, and can only be attributed to his zeal in a cause which it has been his duty to advocate.

If the Commissioners who formed the treaty did not consider the Bay of Fundy, in which the Rivers St. Croix and St. John both have their mouths, as a part of the Atlantic Ocean, but intended to separate and distinguish them, it is not a little extraordinary that they should have fixed on a line to run from the source of the St. Croix due north to the Highlands, which, by that very principle, could not exist in that direction. It is certainly reasonable to suppose, that with such views, they would have described the Highlands as dividing Rivers emptying themselves into the River St. Lawrence, from those falling into the *Bay of Fundy*, and not into the *Atlantic Ocean*. But, on the ground contended for, the case would be plainly this. The Commissioners who made the treaty perfectly understood that the Bay of Fundy was not a part of the Atlantic Ocean; they used the terms in the treaty entirely separate and distinct from each other, and intended to be so understood. They knew that the Rivers St. Croix and St. John had their mouths in the *Bay of Fundy*, and not in the *Atlantic Ocean*, and consequently, that there could be no Highlands directly north of the sources of those Rivers, that divided waters falling into the River St. Lawrence from others falling into the Atlantic Ocean. And yet with this perfect understanding, and all this knowledge, they actually described such Highlands as being due north from the source of the St. Croix, one of the very Rivers thus known to fall into the *Bay of Fundy*, and not into the *Atlantic Ocean*.

But I apprehend that an impartial examination of the treaty cannot fail to lead to the conclusion that it was not intended to speak of the Bay of Fundy and the Atlantic Ocean as separate and distinct from each other, any farther than to designate different parts of the Ocean, when speaking of the Ocean only, and to describe with more particularity the situation of the River St. Croix, which was to form an important part of the boundary between the two nations, and about the identity of which there was, even then, a question. But when alluding to the division of Rivers falling into the Atlantic Ocean from those which fall into the River St. Lawrence, at a point north of the sources of the Rivers having their mouths in the Bay of Fundy, it would seem to be almost self-evident that that Bay was considered a part of the Atlantic Ocean. And the idea suggested by His Majesty's Agent appears to me wholly unfounded, that they are distinguished on Mitchell's Map, (the one used by the Commissioners who made the treaty,) or on any other map, except in the way that Bays of any bodies of water are generally designated. Mitchell's Map, as well as the other maps that I have met with, has designated Penobscot Bay, and also Sagadahoc Bay, in which the Rivers Penobscot and Kennebec respectively empty themselves; and yet it is fully admitted that those two Rivers fall into the Atlantic Ocean. The two latter Bays are, to be sure, not so large as the Bay of Fundy; but it is conceived they are not, for that

reason alone, to be considered on grounds entirely different; especially as the particular extent which confers upon a Bay the dignity of being considered a separate and distinct body of water, has not been pointed out.

These being some of the reasons by which my mind is irresistibly drawn to the conclusion that the Bay of Fundy is a part of the Atlantic Ocean, and that it is not regarded in any other light in the treaty, I will turn my attention to another and somewhat different view of the case.

Thus far I have considered the angle as originally *created* by the treaty: and whether that is the case or not, it can hardly be doubted that the treaty is, at all events, to govern the decision of the question. But, at the same time, if it should appear that the angle had a previous existence, and that its location was the same as that which I have endeavored to show is pointed out by the treaty, it will serve essentially to confirm the construction I have given to that instrument.

The boundaries of Nova Scotia, as defined in the Charter of that Province by King James First to Sir William Alexander, dated the 10th September, 1621, are as follows:

"All and singular the lands of the Continent and the Islands in America, within Cape Sable, lying in forty-three degrees north latitude or thereabouts, thence along the Coast to St. Mary's Bay, and thence passing northward by a right line across the Gulf or Bay now called Fundy to the River St. Croix, and to the remotest western spring-head of the same, whence, by an imaginary line conceived to run through the land northward to the next road of ships, river, or spring, discharging itself into the great River of Canada, and proceeding thence eastward along the shores of the sea of the said River of Canada to the road, haven, or shore, commonly called Gaspich; and thence south-eastward to the Islands called Baccalaus or Cape Breton, leaving the said Island on the right, and the Gulph of said great River of Canada, and the lands of Newfoundland, with the Islands to those lands pertaining, on the left, and thence to the promontory of Cape Breton aforesaid, lying near or about the latitude of forty-five degrees, and from the said promontory of Cape Breton, towards the south and west, to the aforesaid Cape Sable, where the perambulation began."

The Proclamation of His Britannic Majesty of the 7th of October, 1763, on the cession of Canada from France to Great Britain, gives to the Province of Quebec the following boundaries:

"Bounded on the Labrador Coast by the River St. John, and from thence by a line drawn from the head of that River through the Lake St. John to the south end of the Lake Nipissing from whence the said line crossing the River St. Lawrence and the Lake Champlain, in forty-five degrees of north latitude, passes along the Highlands which divide the Rivers that empty themselves into the said River St. Lawrence from those which fall into the sea, and also along the north coast of the Baye de Chaleurs and the coast of the Gulph of St. Lawrence to Cape Rosiers, and from thence crossing the mouth of the River St. Lawrence, by the west end of the Island of Anticosti, terminates at the aforesaid River St. John."

The Act of the British Parliament, of the fourteenth year of George Third, (1774,) relating to the Province of Quebec, provides as follows:

"That all the Territories, Islands and countries in North America, belonging to the Crown of Great Britain, bounded on the south by a line from the Bay of Chaleurs, along the Highlands which divide the Rivers which empty themselves into the River St. Lawrence from those which fall into the sea, to a point in the forty-fifth degree of north latitude, on the eastern bank of the River Connecticut, keeping the same latitude directly west through Lake Champlain, until in the same latitude it meets the River St. Lawrence, from thence up the eastern bank of said River to Lake Ontario, thence through the Lake Ontario and the River commonly called Niagara, and thence along by the eastern and south-eastern bank of Lake Erie; following the

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said bank until the same shall be intersected by the northern boundary granted by the Charter of the Province of Pennsylvania, in case the same shall be so intersected, and from thence along the said north and west boundary of the said Province until the said western boundary strike the Ohio; but in case the said bank of the said Lake shall not be found to be so intersected, then following the said bank until it shall arrive at that point of the said bank which shall be nearest to the north-west angle of the said Province of Pennsylvania; and thence by a right line to the said north-west angle of said Province, and thence along the western boundary of said Province until it strikes the Ohio, and along the bank of said River westward to the bank of the Mississippi, and north to the southern boundary of the territory granted to the merchant adventurers of England trading to Hudson's Bay; and also all such territories, Islands and countries, which have since the tenth day of February, 1763, been made part of the Government of Newfoundland, be and they are hereby, during his Majesty's pleasure, annexed to and made a part of the Province of Quebec, as created and established by the said Royal Proclamation of the 7th of October, 1763."

It will be seen that the western boundary of Nova Scotia, by the Charter of that Province, was a line from the remotest western spring-head of the River St. Croix, to run through the land northward to the next road of ships, river, or spring, discharging itself into the great River of Canada, (St. Lawrence.) Whether this line was, in any event, to extend to the St. Lawrence itself, which has been made a question, is wholly unimportant in the present discussion, as it would, in any event, pass over all the Highlands between the St. Croix and the waters connected with the St. Lawrence in the direction of such line.

By the proclamation above mentioned, it appears the southern boundary of Quebec was to be "a line along the Highlands which divide the Rivers that empty themselves into the said River St. Lawrence, from those which fall into the sea, and also along the north coast of the Bay de Chaleurs," &c. This line would cross the western line of Nova Scotia, running from the St. Croix northward, on the Highlands just described; and this point of intersection then became the *north-west angle of Nova Scotia*.

The Act of Parliament of 1774 made some alterations in the boundaries of the Province of Quebec, but its southern limit was again declared to be "a line along the Highlands which divide the Rivers that empty themselves into the River St. Lawrence from those which fall into the sea."

It is presumed no doubt can arise, and certainly none has been suggested, that the Highlands which are described, both in the King's Proclamation and the Act of Parliament, lay north of the River St. John; as that is one of the principal Rivers falling into the sea, whether that part of the sea where its mouth is situated, is called the *Bay of Fundy*, or the *Atlantic Ocean*.

Returning again to the treaty, it will be perceived that the boundaries of the United States are to commence "from the north-west angle of Nova Scotia." Now, if there was at that time no north-west angle of Nova Scotia, it is very singular that it should have been expressly referred to as such, and adopted as the commencement of the boundary. And if there was then such an angle, I have already shewn that it was north of the River St. John, and on the same Highlands to which the claim of the United States extends. But it is said that the treaty, after providing that the boundaries shall commence at the north-west angle of Nova Scotia, goes on and describes the angle thus, viz: "that angle which is formed by a line drawn due north from the source of St. Croix River to the Highlands, along the said Highlands which divide," &c. This is true; but the question still arises whether this by itself makes an angle for Nova Scotia. For if the treaty line, "drawn due north from the source of St. Croix River to the Highlands," stops short of the line which, by the Proclamation and the Act of Parliament before mentioned, passes "along the Highlands which divide

the Rivers that empty themselves into the River St. Lawrence from those which fall into the sea," it would, to be sure, at its termination with the line running from thence westward towards Connecticut River, form the north-east angle of the United States; but how it could form the north-west angle of Nova Scotia, without the aid of the line between that Province and Quebec, to run from its termination eastwardly, it is difficult to imagine. On the other hand, if the due north line of the treaty should be extended to the line along the Highlands above mentioned, forming the southern boundary of Quebec, the north-east angle of the United States and the north-west angle of Nova Scotia would be at the same place, and the description in the treaty would be both consistent in itself, and in conformity with the previous state of things. It is true that by the treaty the north line begins at the *source* of the River St. Croix, when by the Charter of Nova Scotia it was to run from the *remotest western spring-head* of that River. It is possible that these two starting points might not be precisely the same; but that would make no essential difference, as it would not prevent the angle from being on the same Highlands, or formed in the same manner; it could only have the effect of placing it a little more east or west, as the case might be. At the same time, it was not only conclusively settled by the Commissioners appointed under the treaty of 1794, to determine the true River St. Croix intended by the treaty of 1783, that the St. Croix of the grant to Sir William Alexander, and the St. Croix of the treaty were the same, but on examination of the River, they actually considered, and were about to decide, that the *remotest western spring-head* was the *source* thereof, had not the Agents of the two Governments, for reasons which will appear in another part of this report, agreed upon, and jointly requested the Commissioners to establish a different source.

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But there are still further grounds to believe, that the same Highlands which constituted the southern boundary of Quebec, were intended to be described in the treaty as those to which the due north line should extend. The only variation in the description is, that in the one case they are to divide "the Rivers that empty themselves into the River St. Lawrence from those which fall into the sea," and in the other, they are to divide "the Rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean." And this substitution in the treaty of the *Atlantic Ocean* for the *sea*, it is admitted would have no effect, except to the eastward of the territory which divides the Rivers Chaudiere and Penobscot. At the same time, too, we must bear in mind that the very design of the makers of the treaty to describe different Highlands from those contained in the Proclamation and the Act of Parliament, necessarily presupposes an understanding that the Highlands they were describing could not be situated where they located them. Can this difference of expression, then, afford any evidence of an intention to alter the southern boundary of Quebec, or to create a different one between that Province and Massachusetts, from the one previously established, so as to comport with the claim now set up on the part of His Majesty? Is it not much more reasonable to suppose that the makers of the treaty had it in view to adopt the line along the Highlands, and the north-west angle of Nova Scotia, which had been previously established, than to charge them with the gross absurdity of beginning the boundary at a place called by them the north-west angle of Nova Scotia which by their own description of it could not be such an angle, and the still grosser one, of describing certain Highlands as lying due north of the source of the St. Croix, when they were fully aware that there could be no such Highlands in that direction?

In either case then, whether we take the Highlands described in the treaty as those to which the line due north from the source of the River St. Croix is to extend, or whether we take the north-west angle of Nova Scotia as previously existing, if my views be correct, it follows that the angle now to be ascertained ought to be established

Appendix. north of the River St. John, and on the Highlands pointed out by the Agent of the
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But this is not all. It appears that the opinion I have expressed has been entertained both by the American and British Governments, since the formation of the treaty, on every occasion which has led to an expression on the subject.

The present respectable and learned Agent of His Majesty, when representing his Government before the Board of Commissioners appointed under the treaty of 1794, to ascertain the true River St. Croix, had no doubt on this question. While contending for one place in preference to another, as the source of the St. Croix intended by the treaty, and insisting on the same principles as now, that each power ought to possess the sources of the Rivers that empty within its territory, if it could be accomplished consistently with the intention of the treaty, he makes the following remarks: "The effect, so far as regards the United States, is completely secured by the treaty in all events; and thence we have further reasons to suppose it was intended to be reciprocal in this respect, if a just interpretation will warrant it. A line due north from the source of the western or main branch of the Schodiack or St. Croix will fully secure this effect to the United States in every instance, and also to Great Britain in all instances except in that of the River St. John, where it becomes *impossible* by reason that the source of this River is to the westward not only of the western boundary line of Nova Scotia, but of the sources of the Penobscot and even of the Kennebec, so that this north line must of necessity cross the River St. John, but it will cross it on a part of it almost at the foot of the Highlands, and where it ceases to be navigable. But if a north line is traced from the source of the Cheputnacook, it will not only cross the River St. John within about fifty miles from Fredericton, the metropolis of New Brunswick, but will cut off the sources of the Rivers which fall into the Bay of Chaleurs, if not of many others, probably the Miramichi among them, which fall into the Gulf of St. Lawrence, and thereby be productive of inconvenient consequences to the two powers, if not of contention between them, instead of terminating their differences in such a manner as may be best calculated to produce mutual satisfaction and good understanding, which is one of the principal and avowed objects of the treaty."

The Commissioners, it appears, were about to decide in favor of the outlet of the Schodiack Lakes, when the Agent of the United States proposed an arrangement by which the Cheputnacook should be adopted. This was done because the State of Massachusetts had made grants of lands between the two places, the latter being further north, but at the same time further west than the former. The Agent of His Majesty, before he would consent to the proposal, consulted the Minister of His Britannic Majesty then in the United States, and received from him the following letter, by which Mr. Liston appears to have considered that the due north line would of course cross the St. John, but thought it advantageous to His Majesty to carry it as far west as practicable, so as to allow a greater extent of navigation on that River.

"(Private.)

"PROVIDENCE, 23d October, 1798.

"SIR: I have considered with attention your letter of this day, and it appears to me evident that the adoption of the River Cheputnacook as a part of the boundary between His Majesty's American dominions and those of the United States, in preference to a line drawn from the easternmost point of the Schodiack Lakes, would be attended with considerable advantage.

"It would give an addition of territory to the Province of New Brunswick, together with a greater extent of navigation on the St. John's River, and above all, a longer stretch of natural frontier, calculated to prevent future difficulties and discussions between the two countries. If, therefore, by assenting to the proposal of the American Agent, you can bring about the unanimous concurrence of the Commission-

ers in this measure, I am of opinion that you will promote His Majesty's real interest; *Appendix.* and I will take the earliest opportunity, with a view to your justification, of expressing these my sentiments on this subject to His Majesty's Secretary of State.

"I have the honor to be,

"With great truth and regard, Sir,

"Your most obedient humble servant,

[Signed.]

"ROB. LISTON.

"WARD CHIPMAN, Esq."

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The same Agent of His Majesty had also the honor of representing his Government before the Commissioners acting under the fourth article of the treaty by which this Board is established; and on that occasion, in the month of September, 1817, even after the instructions had been issued to the Surveyors in this case, we find him contending "that the north-west angle of Nova Scotia, mentioned in the treaty as the commencing point of the boundary of the United States, is the north-west angle of the said Province of Nova Scotia designated in the said grant to Sir William Alexander, in 1621, subject only to such alterations as was occasioned by the erection of the Province of Quebec, in 1763." This is an unequivocal admission, that the angle now in question is formed by the intersection of the western line of Nova Scotia with the southern line of Quebec.

Even the British Commissioners who signed the Treaty of Ghent, in 1814, appear to have been aware of the validity of the claim of the United States, in regard to the north-west angle of Nova Scotia. On the 19th day of August, 1814, they propose to the Commissioners of the United States, the discussion of "such a *variation* of the line of frontier as may secure a direct communication between Quebec and Halifax." On the twenty-sixth of September, the American Commissioners, while on this subject, say, "The proposal, however, of the British Plenipotentiaries was not to *ascertain* but to *vary* those lines, in such a manner as to secure a direct communication between Quebec and Halifax; an *alteration* which could not be effected without a cession by the United States to Great Britain of all that portion of the State of Massachusetts intervening between the Province of New Brunswick and Quebec, although unquestionably included within the boundary lines fixed by that treaty." On the eighth day of October the British Commissioners reply, that "the British Government never required that all that portion of the State of Massachusetts intervening between the Province of New Brunswick and Quebec should be ceded to Great Britain, but only that small portion of unsettled country which *intercepts* the communication between Halifax and Quebec; *there being much doubt whether it does not already belong to Great Britain.*"

Here was first a proposition to *alter an existing boundary*. This was at once rejected, on the ground that the *alteration* could not be effected *without a cession of a considerable territory*, which was by the treaty of 1783 unquestionably included within the boundaries of the United States. It is then *admitted that a cession of territory is required*, though of less extent than had been stated. And to this admission is added the faint denial of the unequivocal declaration that all the territory spoken of unquestionably belonged to the United States; *that there was much doubt whether the territory thus required to be ceded did not already belong to Great Britain.*

The Agent of His Majesty, in his closing argument, delivered on the 27th day of September last, appears to place great reliance upon a supposed discovery in favor of the claim set up by him, in the "Secret Journals of the Congress of the Confederation," which had been published since the previous session of the Board, in the month of August last. Those parts of the proceedings of the Old Congress to which the most importance is given in this respect, are contained in the instructions agreed to be given to the Minister to be appointed for negotiating a Peace, on the 14th of August,

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1779, and in a Report made on the 16th of August, 1782, by a Committee which had collected certain facts and observations, and which they recommended to be referred to the Secretary for Foreign Affairs, to be by him digested, completed, and transmitted to the Minister for negotiating a Peace. The material part of the instructions referred to is as follows: "The boundaries of these States are as follows, viz: These States are bounded north by a line to be drawn from the north west angle of Nova Scotia, along the Highlands which divide those Rivers which empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River; thence down along the middle of that River to the forty-fifth degree of north latitude; thence due west in the latitude forty-five degrees north from the equator to the north westernmost side of the River St. Lawrence or Cataragui; thence straight to the south end of Nipissing, and thence straight to the source of the River Mississippi: west by a line to be drawn along the middle of the River Mississippi, from its source to where the said line shall intersect the thirty-first degree of north latitude: south by a line to be drawn due east from the termination of the line last mentioned, in the latitude of thirty-one degrees north from the equator, to the middle of the River Appalachieola or Catahouche; thence along the middle thereof to its junction with the Flint River; thence straight to the head of St. Mary's River, and thence down along the middle of St. Mary's River to the Atlantic Ocean: and east by a line to be drawn along the middle of St. John's River, from its source to its mouth, in the Bay of Fundy, comprehending all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid boundaries between Nova Scotia on the one part, and East Florida on the other part, shall respectively touch the Bay of Fundy and Atlantic Ocean. You are therefore strongly to contend, that the whole of the said countries and islands lying within the boundaries aforesaid, and every citadel, fort, post, place, harbour and road, to them belonging, be absolutely evacuated by the land and sea forces of His Britannic Majesty, and yielded to the powers of the United States to which they respectively belong, in such situation as they may be at the termination of the war. But notwithstanding the clear right of these States, and the importance of the object, yet they are so much influenced by the dictates of religion and humanity, and so desirous of complying with the earnest request of their allies, that if the line to be drawn from the mouth of the Lake Nipissing to the head of the Mississippi cannot be obtained without continuing the war for that purpose, you are hereby empowered to agree to some other line between that point and the River Mississippi; provided the same shall in no part thereof be to the southward of latitude forty-five degrees north. And in like manner, if the western boundary above described cannot be obtained, you are hereby empowered to agree that the same shall be afterwards adjusted by Commissioners to be duly appointed for that purpose, according to such line as shall be by them settled and agreed on as the boundary between that part of the State of Massachusetts Bay formerly called Province of Maine, and the Colony of Nova Scotia, agreeably to their respective rights. And you may also consent that the enemy shall destroy such fortifications as they may have erected."

The Committee referred to, in their report, say—"It is therefore incumbent on us to shew, first, that the territorial rights of the thirteen United States, while in the character of British Colonies, were the same with those defined in the instructions given to Mr. J. Adams, on the 14th of August, 1779; and, secondly, that the United States, considered as independent sovereignties, have succeeded to those rights." They contended, throughout their report, that the boundary between Massachusetts and Nova Scotia should remain the same as it had been; but they endeavored to shew that the River St. John constituted that boundary, and ought to be agreed upon as such; at the same time, they admitted that the eastern boundary of Massachusetts could not be proved to extend to the River St. John, as clearly as to that of St. Croix,

and that it was not advisable to continue the war merely to obtain territory as far as the St. John.

It appears also, by the testimony of President Adams, that at the conferences which led to the treaty of 1783, one of the American Ministers at first proposed the River St. John, as marked on Mitchell's Map. But his colleagues observing to him that as St. Croix was the River mentioned in the Charter of Massachusetts Bay, they could not justify insisting on St. John as an ultimatum, he agreed with them to adhere to the Charter of Massachusetts Bay.

From these proceedings, the Agent of His Majesty declares the following inferences, among others, to be "obvious and incontrovertible," viz: "that the north-west angle of Nova Scotia was therein contemplated to be at the source of the River St. John;" and "that the Highlands therein contemplated as dividing the Rivers which empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, were the Highlands extending from the said source of the River St. John to the north-westernmost head of Connecticut River; and, consequently, that the Rivers therein contemplated to be divided were the Rivers Chaudiere and De Loup only, as emptying themselves into the River St. Lawrence, and the Rivers Androscoggin, Kennebec and Penobscot only, as falling into the Atlantic Ocean;" and also, "that as the St. John, from its source to its mouth in the Bay of Fundy, and a line from its source along the Highlands in that behalf designated to the north-westernmost head of Connecticut River, were the utmost boundaries in that quarter, either north or east, if the same could be obtained from Great Britain, that were ever claimed, proposed, or contemplated on the part of the United States as a part of their boundaries in the same quarter, either by Congress or by the Ministers who on their part negotiated the Treaty of Peace of 1783, it incontestably follows, that no part of the territory north or east of the said Highlands and of the said River St. John, from its source to its mouth, in the Bay of Fundy, can now be claimed as a part of the United States designated in the second article of the said treaty of peace of 1783."

Now it is very plain, that any person who supposes there is any thing in these proceedings of the Old Congress, which has a tendency to weaken the claim now made on the part of the United States, entirely misunderstands them. The Congress claimed nothing more or less than the previously existing boundary between Massachusetts and Nova Scotia on the east, and that between Massachusetts and the Province of Quebec on the north, by the intersection of which two lines, the angle in question was originally formed. This appears throughout all the proceedings on this subject. In the second volume of the Journals, page 133, it is declared, in the report of a Committee, that the United States are bounded "northerly by the ancient limits of Canada, as contended for by Great Britain, running from Nova Scotia south-westerly," &c. and "easterly by the boundary settled between Massachusetts and Nova Scotia." In the proceedings extracted by His Majesty's Agent, the north-west angle of Nova Scotia is spoken of, without any other description, as an *existing* angle, and *not one to be created*. Its actual position was the only point to be ascertained. If it could have been made to appear that the River St. John was the eastern boundary of Massachusetts, the United States would have gained an extent of sixty miles on the sea coast beyond the River St. Croix. It is true that the principal source of the St. John is situated in longitude to the west of that of the St. Croix, but this would have been of trifling consequence compared with the valuable difference on the coast in favor of the former. The claim to the St. John, however, was abandoned by the American Ministers, and the St. Croix was agreed upon. The angle, indeed, by being placed at the principal source of the St. John, would have been farther to the west; but it would, notwithstanding, have been fixed on the same Highlands for which the United States now contend, as His Majesty's Agent admits that the source of the St. John, which is marked on Mitchell's Map as extending, "is found, in fact, by the

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surveys made under the present commission, to extend, to the Highlands in which the Rivers Chaudiere and De Loup, falling into the River St. Lawrence, and the Rivers Kennebec and Penobscot, falling into the Atlantic Ocean, have their sources."

The proposition, then, to take the St. John as the eastern boundary of the United States, instead of being at variance, was in perfect accordance with the idea, that the boundary between Massachusetts and Quebec, and which must of necessity be one of the lines of the angle passed along the Highlands situated on the north side of that River, as by the extension of its source to those Highlands, or in other words, to that boundary, the contemplated angle would be formed. To suppose it to have been understood that the Highlands constituting the southern line of the Province of Quebec, were situated south of the St. John, would involve the supposition, that by going up that River the intention was to pass beyond that line, and then return to it from the north to form the angle; for it must be borne in mind, that the same line which, on any construction, would divide Massachusetts from Quebec, would continue eastwardly as the dividing line between Nova Scotia and Quebec. The fallacy of such an argument surely need not be pointed out.

In the case of the St. Croix, as that River did not extend far enough to the north to form one of the lines of the angle complete, a line from its source was protracted in a direction due north to the same Highlands that were reached by the said source of the St. John in a more western longitude. It is certainly correct, as has been stated, that if the angle had been fixed at the source of the St. John before mentioned, there could have been no Highlands in question, except those extending from that place to the north-westernmost head of Connecticut River, and no Rivers to be divided by them except the Chaudiere and De Loup on the one side, and the Kennebec and Penobscot on the other, because there are no others between those points. But it does not therefore follow, that such Highlands in their extension eastwardly would go south of the St. John, or that in establishing another boundary, no other or greater extent of Highlands were thought of; or that if the angle was placed in any other position, a line from it to the north-westernmost head of Connecticut River, would divide no other Rivers than those just mentioned. The parties have made a different agreement; which is to be construed according to just and established rules, without reference to any previous claims, or rejected offers, made on the one side or the other. The argument that the United States, because they were willing to take the St. John, from its mouth to its source, are now precluded from claiming *at any point* beyond the boundary which they would in that case have obtained, is so inapplicable to the present case, and so destitute even of plausibility, that it would be improper to spend any further time upon it.

Having thus concisely stated the principal grounds upon which my opinion has been formed, I do decide and report, that the north-west angle of Nova Scotia, according to the true construction of the Treaty of Peace of 1783 between the two Powers, is at a point on a line due north from the source of the St. Croix, and about one hundred and forty-four miles from the source of that River, on the lands which lie between the waters of the River Restigouche, and the waters which fall into the River St. Lawrence.

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The north-westernmost head of Connecticut River is the remaining point to be ascertained and determined by the present commission. And on this question the Agents of the two Governments are also at variance. The British Agent contends, that a *small brook* running into a small lake, being the third and upper one in the main branch of Connecticut River, is the north-westernmost head of that River; and the American Agent has endeavored to prove, that the middle branch of *Hall's Stream*,

so called, is the true north-westernmost head of Connecticut River contemplated in the treaty. Appendix
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I cannot decide in favor of either of these claims. The west branch of *Indian Stream*, lying between the two places designated by the Agents, appears to me to be the north-westernmost head of Connecticut River intended by the treaty.

It is to be remarked, in the first place, that the treaty evidently contemplates there being several different heads or branches of Connecticut River, and that it must have been intended to throw them all into the United States, except the north-westernmost head, which was adopted as the boundary. On the Map of Mitchell, which was particularly referred to by the framers of the treaty, several heads of that River are distinctly marked. The very term *north-westernmost*, implies that there might even be other north-western heads. If the existence of but one head of Connecticut River was contemplated, why not say to the *head* of the River, instead of the *north-westernmost* head? If such had been the case, it can hardly be doubted that this would have been done. And it is equally plain, that supposing more heads than one to exist, it could not have been intended to give any preference to the *main* stream or head of the Connecticut, unless it was, at the same time, the *north-westernmost* head. Because if that had been the object, the expression shewn to be proper in case but one head of the River was supposed to exist, would either have been used as applicable to the *main* head alone, or an express designation made of the *main* head.

The following extracts from the arguments of His Majesty's Agent, will shew the grounds upon which he rests his pretensions; and, at the same time, serve other purposes in the investigation.

“The next point, then, to be ascertained with regard to that part of the boundary which lies in this quarter, will be the point which forms the north-westernmost head of Connecticut River; and this involves the necessity, and depends upon the result of the previous question—What River is Connecticut River? And to this question one, and one answer only, can be given, viz: that River, and that River only, which, from its mouth to its source, has always been and still is exclusively called and known by that name: that River, and that River only, which, from its mouth to its source, has been laid down in all the maps of this part of the country under that name; that River, and that River only, which, from its mouth to its source, was exclusively known and called by that name at the time of the Treaty of Peace of 1783; and lastly, that River, and that River only, which, in the plans of the several and respective Surveyors, made under the authority of this honorable Board, is laid down exclusively under that name. The River answering to these descriptions is, therefore, claimed and insisted upon on the part of His Majesty, as the Connecticut River truly intended under that name in the second article of the Treaty of Peace of 1783, and is particularly designated in the particular report and plan of the survey made thereof, under the authority and direction of this honorable Board, during the last year, and in the general map of all these surveys now upon the table. It is true that there are several, comparatively with this River, small streams, whose waters are tributary to this River; sketches of which streams appear in the several plans of the surveys of this River, made under the authority of this commission. The most westernly of these tributary streams is called and known by the name of Leach's Stream; the next of these tributary streams is called and known by the name of Hall's Stream; the next of these tributary streams by the name of Indian Stream; the next and last of these tributary streams falling into this River westwardly of the source, is called and known by the name of Perry's Stream. The only complete and correct description of Connecticut River, and of its tributary streams, will be found in the report and plan thereof, above referred to, made by Dr. J. L. Tiarks, Astronomer and Surveyor on the part of His Britannic Majesty, under the present commission; which report and plan are, in all the essential parts thereof, confirmed by the reports and plans of the

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Again: "But if a shadow of doubt could remain, with regard to the exclusive identity of Connecticut River contemplated and truly intended in the second article of the Treaty of Peace of 1783, an attention to the immediately subsequent words in the treaty would instantly dispel every shadow of such doubt. The words are—"thence down along the middle of that River to the forty-fifth degree of north latitude." What River? There being but one River known by that name, this only River, thus eminently called and known by that name, must of necessity be the River here intended. Will it—can it be contended that Perry's Stream is the Connecticut River, eminently so called? or that Indian Stream is the Connecticut River eminently so called? or that Hall's Stream is the Connecticut River eminently so called? or that the west branch or the middle branch of Hall's Stream is the Connecticut River eminently so called? or that Leach's Stream is the Connecticut River eminently so called? Neither of these questions can ever be answered in the affirmative. But the moment you depart from the true and only Connecticut River, eminently so called, either of these streams, or either of the branches of either of these streams, or any other river or stream tributary to the great Connecticut, must have equal right and pretension, one with the other, to be dignified exclusively with the eminent title of the Connecticut River."

The report of Mr. Tiarks, His Majesty's Surveyor, upon which so much reliance has been placed, has the following passages: "The stream into which Indian Stream discharges itself comes from the eastward, and is commonly called Connecticut River; or sometimes the Main Connecticut River, to distinguish it from the other small streams that successively unite with the larger stream, and have all particular well-known names."

Again: "It follows from this, that Connecticut River has more than double the quantity of water than Indian Stream has, and is fully entitled to be called, which is indeed allowed on all hands, the *main stream* of Connecticut." And after stating that the third lake in the *main stream* of this river is "little more than a mile in its greatest dimensions," and "is formed by the confluence of *small brooks*," he gives a description of the surrounding country, and then says—"We returned to the *head of the north-western brook* running into the lake, *which is the north-westernmost head of the river* which we had traced up, and marked that spot by blazing a number of trees around it."

There was indeed no necessity of proving "what river is Connecticut River;" there having been no question about the identity of that River, or of its main head. It is entirely immaterial, however, what head is "dignified exclusively with the eminent title of Connecticut River." The point to be attended to is, *which is the north-westernmost head of that River?*

His Majesty's Agent has himself shewn, "that there are several, comparatively with this river, small streams, whose waters are tributary to this river," coming in from the north-west, and proceeds to name them, beginning with the one most westerly, to wit: *Leach's Stream, Hall's Stream, Indian Stream, and Perry's Stream*. And Mr. Tiarks, in his report, labours to establish that the stream coming from the eastward, where it is joined by *Indian Stream*, is called "the *main* Connecticut River," and "the *main stream* of Connecticut River," and that it is so called "to *distinguish* it from the other small streams that successively unite with the larger streams, and have all particular well-known names." Now it is obvious that the proof of these facts is, in itself, proof that there are *other* streams of Connecticut River, besides the *main stream*. It would really be somewhat singular, if these "small streams" with "particular well-known names" were not considered branches or heads of Connecticut River, how there could have existed a necessity to call the one coming

from the east the *main stream*, for the purpose of distinguishing it from these same "small streams." Appendix.
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The name of the Connecticut River alone, would answer every purpose to distinguish that river from streams known by different names, and having no connection with it, except that of emptying into it.

But the fact that these smaller branches are called *streams*, and have never received the appellation of *rivers*, is alone strong evidence that they have ever been considered as mere heads or streams of Connecticut River. They have, to be sure, been called *Hull's Stream*, *Indian Stream*, &c.; yet this appears to have been in order to distinguish them from each other, and also from the "*main stream*," on the same principle that the largest branch is stated to have been denominated the "*main stream*," to distinguish it from these others. It is to be observed, however, that with the exception of *Hull's Stream*, it does not appear that either of them had any name at the time of the formation of the treaty. But the circumstance that the largest and principal head or branch should be called the "*main stream*," or should even retain the complete and precise name of the river, cannot be of much importance, since it is very common, in cases where there are several heads of rivers, for the largest and principal ones to retain the names of such rivers, when at the same time the others, although they may be known by distinct names, are not the less deemed to be heads or branches of the same rivers.

Can the position then be supported, that we must follow up the main stream of Connecticut River, the course of which is eastward, through two lakes into a third, and there take a *small brook*, less than eighty rods long, as the north-westernmost head of Connecticut River intended for the boundary line between the two nations? Can it for a moment be believed, that nothing more was in view by the framers of the treaty, in taking the *north-westernmost head* instead of the *head* of the river, than to prefer one *small brook* to another, perhaps within a few rods of it, as the lake into which they run is stated to be only "a little more than a mile in its greatest dimensions?"

It is urged that the north-westernmost head of Connecticut River, where the line along the Highlands strikes it, is to be sought for at the source of the main stream of the river; because the treaty, in proceeding from that point, says, "thence down along the middle of that river to the forty-fifth degree of north latitude." But the fair meaning of this is, that the head agreed upon, if it was not itself the main head, should be followed down to the main stream or river, and then down that to the line of latitude. It must have been foreseen that to follow the main river from that part of the north-westernmost head of it which makes a point in the boundary, to the line of latitude, might be *impossible*, unless the *north-westernmost head* and the *head* of the river were considered the same, which it has already appeared could not have been the case. And the language used in the treaty, in this respect, was perfectly proper, as the *north-westernmost head* might or might not prove to be the *main head*; and such expressions were adopted as would answer the purpose in either case, without an addition of words. This argument, however, is no sooner raised than it is demolished, by the selection of the *little brook*, which is insisted on as the *north-westernmost head* of the river, but which is not pretended to be the *main head*. For if the boundary can go any distance, however small, between the two points just mentioned, otherwise than *along the main stream*, such distance becomes unimportant: and no other stream uniting with the main river above the latitude line, can any more be excluded on that ground than the *little brook*. Nor is there any better foundation for the argument that if a different head from the main one is adopted, still it must be one that falls in at the most remote point, or rather at the head of the main stream, from a necessity of making this river a part of the boundary, to the utmost extent of it, as called and known by the name of Connecticut, because, from its *north-*

Extracts from the
Report of the A-
merican Commis-
sioner under the
5th article of the
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No. 54.

Extracts from the
Report of the A-
merican Commis-
sioner under the
5th article of the
Treaty of Ghent.

Second Extract.

westernmost head, the subsequent part of the boundary line was to be drawn down along the middle of that river; that is, down along the middle of Connecticut River, to the forty-fifth degree of north latitude." Whether the *north-westernmost head* comes into the *main stream* at its very source, or at any other point above the forty-fifth degree of north latitude, the subsequent part of the boundary, from the *north-westernmost head* to that latitude, will be along the middle of Connecticut River, and will therefore equally satisfy the treaty.

The claim advanced by the Agent of the United States, as I have already remarked, is also objectionable. From the language made use of in the treaty, and the facts which, it is to be presumed, were known to its framers, it must have been considered that the north-westernmost head of Connecticut River selected as the boundary, emptied itself into, and became identified with, the main stream of the river, above where the forty-fifth degree of north latitude was supposed to be. This construction, then, would lead to the rejection of *Hall's Stream*, the one designated on the part of the United States; because, waiving the question whether the line actually existing, and which was established as being on the forty-fifth degree of north latitude before the treaty was made, will ever be changed, *Hall's Stream* empties itself below the junction of that line with Connecticut River, and therefore could not have been taken into consideration in the establishment of the boundary.—Several years previous to 1783, there had been certain proceedings to establish the line on the forty-fifth degree of north latitude, between the Rivers Connecticut and Iroquois, for the purpose of settling the boundary between the Provinces of New York and Quebec; which, it is believed, and is admitted by both Agents, could not have been unknown to the framers of the treaty. By those proceedings it is found that the Surveyors, who were directed to protract the line from Lake Champlain to Connecticut River, reported, on the first day of October, 1772, that they had fixed the boundary between the two Provinces "on the west bank of Connecticut River, two miles and fifty chains on a direct line above the mouth of a small river falling in on the west side of Connecticut River, known by the name of *Hall's Brook*."

Indian Stream is entirely situated above the line existing when the treaty was made, and supposed to be on the latitude of forty-five degrees. It comes from the north-west, and by its west branch, extends further in a north-westerly direction than any source of Connecticut River, except *Hall's Stream*. It is stated in the report of His Majesty's Surveyor, that at the junction of *Indian Stream* with the *main stream* of the river, the former is sixty-six feet wide, and the latter one hundred feet, and the depth is about equal. *Indian Stream*, then, better than any other, in my opinion, answers the description and intention of the treaty, according to the best and fairest construction which can be given to that instrument. And this would retain the boundary where, it is understood, the people residing in the vicinity belonging to both nations have always considered it to be.

His Majesty's Agent, after labouring against the adoption of *Hall's Stream*, contends, if that is out of the question, that *Indian Stream* cannot be taken, because *Hall's Stream* is the most north-western of the two. The following answer of the Agent of the United States to this argument, who claims Indian Stream, provided *Hall's Stream* is rejected, is conclusive:

"This argument seems to be founded on the principle that if a head cannot be called north-westernmost, for the purposes of the treaty, and yet can be so called for other purposes, it shall exclude all others from being so called for the purposes of the treaty; a doctrine wholly inadmissible; for if *Hall's Stream* cannot be regarded for the purposes of the treaty, it cannot be regarded against those purposes."

I do therefore decide and report, that the head of the west branch of Indian Stream is the true north-westernmost head of Connecticut River designated and intended in the treaty of 1783.

Having completed this report on the two points submitted to the Commissioners, *Appendix.* for their decision, I have, according to my view of the subject, done all that is re- *No. 54.* quired by the treaty establishing this commission.

The Commissioners are authorized to ascertain and determine the north-west angle of Nova Scotia, and the north-westernmost head of Connecticut River; and are directed to cause the whole boundary line between the two powers, from the source of the River St. Croix to the River Iroquois or Cataraquy, to be surveyed. The *survey* of the boundary being principally dependent on the two points above mentioned, the treaty does not contemplate any to take place until those points are settled. The Commissioners, however, to facilitate the progress of the commission, not knowing that they would disagree on those points, proceeded to direct some work preparatory to a survey on some part of the boundary. The Agents of the two Governments differ on the extent of the survey to be made on the line of latitude from Connecticut River to the River Iroquois, and likewise on the manner of making such survey; and at the time of submitting their arguments on the two points in the boundary to be determined, presented several questions in regard to that survey. This was well enough; as in case of the Commissioners agreeing on the points necessary first to be determined, they might without further delay have decided those questions, so that the survey could immediately have proceeded. But a disagreement having taken place on the preliminary points, I do not consider it according to the course marked out in the treaty to make any decision, or to express any opinion, at this time, on the questions relating to the *surveys* of any part of the boundary.

In assigning the reasons for my opinion, I have not deemed it necessary to recapitulate the various matters in evidence before the Board, and the arguments of the respective Agents thereupon, because copies of the proceedings of the Commissioners, of the claims and arguments of the Agents, and of the reports of the Surveyors, as well as all other documents which have been produced in evidence, will be furnished to each Government, at the time of delivering the reports of the Commissioners; and to those I refer as a part of my report, for the purposes of explanation and verification, whenever it may be necessary.

It only remains for me to assure the two Governments, whose interests have in this case been committed in part to my decision, that I have given the subject all the consideration of which I am capable, and that I have endeavored to investigate and to decide, with that impartiality and regard to justice which were not less due to the high and honorable trust reposed in me, than they were required by the solemnity of the oath under which I have acted.

C. P. VAN NESS.

NEW YORK, *April 13th, 1822.*

Extracts from the
Report of the A-
merican Commis-
sioner under the
5th article of the
Treaty of Ghent
Second Extract

APPENDIX, No. LV.

EXTRACTS

FROM

THE ARGUMENTS OF THE BRITISH AGENT

UNDER

THE 5TH ARTICLE OF THE TREATY OF GHENT.

Appendix.
No. 55.

Extracts from the
Arguments of the
British Agent un-
der the 5th article
of the Treaty of
Ghent.

British Agent's
First Memorial.

“ At Mars Hill there will be found a point of intersection of the north line with highlands fully answering the description in the treaty: there, it is conceived, is the point at which the north line ought to terminate; for these lands are not only unquestionably the highest, but they are also the first that have been intersected by the north line; and it would not only be unreasonable to pass over these to look for others, which, if found, would not so well answer the description, but would also be inconsistent with the meaning of the words used in the treaty, viz: “ *North to the highlands;*” which words are evidently to be understood as intending that the north line should terminate whenever it reached the highlands which, *in any part of their extent*, divide the waters mentioned in the treaty.”

“ And as the said Mars Hill appears to be connected by broken ridges of highland with the mountains, near the sources of the Penobscot, and the highest points of land to the Connecticut River will be found in continuation of the same direction, and will fully answer the description of the highlands contemplated in the treaty, it follows, that the point of highlands lying due north from the source of the River St. Croix, and designated in the said treaty of peace, of 1783, as the north-west angle of Nova Scotia, must be ascertained and determined to be at the point of the highlands at Mars Hill, the first and only highlands which is intersected by the said due north line, in conformity with the provisions, in this behalf, of the said treaty.”

British Agent's
Second Memorial.

“ It is presumed that it will admit of no doubt that the true intention of that part of the treaty, now under consideration, was to secure to the United States the objects solely which are above specified in this regard; and that it was likewise the intention of this part of the treaty, to leave to his Majesty the undisputed and undisturbed right and possession of and to all parts of the adjoining territory not intended to be included within the boundaries of the United States. *This intention will be literally effectuated by a very small variation of the expression actually made use of* in this regard, namely, by describing the second line forming this angle in the following words, that is to say, “ *along the said highlands where they divide those rivers that empty themselves into the River St. Lawrence from those that fall into the Atlantic Ocean.*” The expression actually made use of is, *along the said highlands which divide the rivers, &c.* For it is to be observed, that the north-west angle of Nova Scotia is distinctly defined before any mention is made of the circumstance of the highlands, which form a subsequent part of the boundary dividing the rivers mentioned, in that

regard, in the treaty. And this circumstance, of the highlands dividing rivers, is mentioned, not as constituting a part of the definition of the term, but merely as matter of description, with the view of securing to the United States the sources of the rivers which empty themselves within the boundaries, as before stated. The words descriptive of the eastern boundary of the United States, are these: "East, by a line to be drawn along the middle of the River St. Croix, from its mouth in the Bay of Fundy, to its source; and from its source, directly north, to the aforesaid highlands which divide the rivers that fall into the Atlantic Ocean from those which fall into the River St. Lawrence." These words, taken in *their literal and individual signification*, would involve a construction altogether inconsistent with other parts of the treaty, and with facts at the time within the knowledge of the framers of it; and if the foregoing observations upon the first description of this part of the boundary be, as they are presumed to be, correct, *these words, descriptive of the eastern boundary, must, of necessity, be interpreted in a corresponding sense.*"

Appendix.
No 55.

Extracts from the
Arguments of the
British Agent under
the 10th Article
of the Treaty of
Ghent

British Agent
Second Memorial

British Agent
Reply

"The framers of the treaty, of 1783, while they appear to have presumed from their knowledge of the highlands that divided the sources of the Kennebec from those of the Claudiere, that a continued range or ridge of highlands would be found in the same direction, extending from the due north line to the north-westernmost head of Connecticut River, yet they could not have been certain that this due north line would, in fact, precisely intersect these, or any other, highlands; and, in case of no such intersection, the north-west angle of Nova Scotia must, of necessity, to fulfil the intention of the treaty, be found at the point of the intersection of the due north line, by a prolongation of the line along these well known highlands, easterly, to such point of intersection."

"These highlands, thus intersected by the due north line, are found to lie in the general course and direction of the highlands "*along*" which the second line, forming the north-west angle of Nova Scotia, is described in the treaty to run, namely: "the highlands which divide those rivers which empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the termination of this line at the north-westernmost head of Connecticut River." Or, in other words, the highlands thus intersected by the due north line lie in the general course and direction of a line drawn from the north-westernmost head of Connecticut river, along the well known and very elevated and conspicuous HEIGHT OF LAND forming the acknowledged and notorious land-mark and boundary between the two nations, in that quarter which divides the River Chaudiere and du Loup, emptying themselves into the River St. Lawrence, from the Rivers Penobscot and Kennebec, falling into the Atlantic Ocean. This well known HEIGHT OF LAND being the *only high land which actually divides* the rivers contemplated in the treaty to be divided by the boundary line therein described, as the undersigned Agent has heretofore, in the course of these discussions, abundantly shewn; and this well known HEIGHT OF LAND being moreover found to extend north-easterly in a direction towards Mars Hill, in a distinct and unbroken ridge, for many miles, and to be afterwards connected with Mars Hill by a succession of mountains and broken ridges of highlands, intersected with ponds and streams, appearing to the eye, when viewed from various stations, to be an elevated and unbroken ridge, as the result of the surveys fully prove. No other point in this due north line, in any part of its extent, combines these various circumstances, exclusively of the other and fatal objections to adopting any point in this line, north of the River St. John, as the north-west angle of Nova Scotia. It seems, therefore, from these considerations, to result in demonstration, that the point where the said due

Appendix. north line strikes the highlands at Mars Hill is the north-west angle of Nova Scotia truly intended in the treaty of peace of 1783.

Extracts from the Arguments of the British Agent under the 5th article of the Treaty of Ghent. — British Agent's Reply.

“The true intention of the treaty, then, under all the acknowledged facts in this case, would clearly be ascertained *by the following obviously plain and natural and nearly literal construction* of its phraseology, namely: It is hereby agreed and declared that the following are, and shall be, the boundaries of the United States, viz: from the north-west angle of Nova Scotia, viz: that angle which is formed *by a line* drawn due north from the source of St. Croix River *to the line* of the highlands, along the said line and the highlands which divide,” &c.

“The force of this reasoning will be rendered more apparent if the boundaries of the United States, described in the treaty, be traced from west to east, instead of from east to west, as they are traced in the treaty, merely for the purpose of a more convenient description of them; for, it will not be contended that the quarter in which one may commence the actual tracing of a boundary, previously agreed upon, can make any difference in the boundary itself. Let then the tracing of the boundary, in this quarter, be made “FROM the north westernmost head of Connecticut River ALONG the highlands which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the north-west angle of Nova Scotia, viz: that angle which is formed by a line drawn due north from the source of St. Croix River to the highlands.”

“In this case the only difference is, that the second line forming the angle is placed first in order in the description—there is no difference in the line itself. But it is the course or inclination of this line which is to form the north west angle of Nova Scotia, at the point of its intersection with the due north line, drawn from the source of the St. Croix.”

“The line along the highlands, forming one of the lines of the north-west angle of Nova Scotia, is expressly designated in the treaty, to be a line along the highlands which divide the rivers that fall into the *Atlantic Ocean* from those which fall into the *River St. Lawrence*, *between* (i. e. from) the north-west angle of Nova Scotia and (i. e. to) the north-westernmost head of Connecticut River.”

“He, therefore, determined carefully to abstain from any reference whatever to any documents, maps, or plans, respecting the ancient or former boundaries of the Province of Nova Scotia, or to any of the proceedings before the Commissioners under the 5th article of the treaty of 1794, or of those under the 4th article of the present treaty, although he had them all in his possession, because he evidently perceived that the merits of the business submitted to the consideration of this honorable Board, though they might have been incidentally alluded to, had never come directly under discussion on either of those former occasions; and, consequently, that any of the *obiter dicta* of the Commissioners or Agents of either Government, in matters not in judgment before them, nor submitted in any manner to their investigation, could not any more than the *obiter dicta* of Judges or Counsel in any judicial proceeding, *ALIO INTUITU*, in the courts of law, be cited as authorities in a cause in which the merits of those occasional illustrations should become the direct object for investigation or decision; and it would obviously be most unreasonable if it were otherwise. This observation has been elicited by the reference made by the Agent of the United States, to some expressions made use of by the undersigned Agent, in illustration of

his arguments before the Commissioners, under the 5th article of the treaty of 1794, *Appendix*, at a time when he had not in any degree examined, and was altogether a stranger to, the particular merits and bearings of the present question, which, at that time, was not a subject of investigation: Which expressions, as they were not entitled to, so it is certain they never can have, any weight with the commissioners forming this enlightened Board, who are sworn "impartially to examine and decide upon the present claim, according to such evidence as shall be laid before them, on the part of his Britannic Majesty and of the United States, respectively."

No. 55.
Extracts from the
Arguments of the
British Agent un-
der the 5th article
of the Treaty of
Ghent.
British Agent's
Observations upon
the answer of U. S.
Agent.

"And we here discover the accuracy and propriety of the peculiar phraseology, in the first description of the north-west angle of Nova Scotia, noticed in the 5th section of the second part of the opening argument of the undersigned, namely, that this angle *is not* in this description, *designated* to be that angle which is formed by a line drawn due north from the source of the River St. Croix *to the highlands which divide* those rivers which empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, but *merely to the highlands*. The framers of the treaty well knew, that this north line would never intersect any part of those only highlands contemplated in the treaty; therefore the second line is described to be *along the said highlands*, &c., and thus confirms the reasoning of the undersigned in the section of his argument above alluded to, and is strictly conformable to Mitchell's Map, in this regard. And as it had been, in the manner before mentioned, conceded, and it has been accordingly incontestably established, that the line along the highlands intended by the treaty, should and must be a line south of the River St. John, it results in demonstration, that the north-west angle of Nova Scotia, designated in the 2d article of the treaty of peace, of 1783, is formed *by a protraction of this line from the said highlands easterly*, along the highlands, of the description mentioned in the claim and opening argument of the Agent of the United States, following the sources of the several branches of the rivers, above mentioned, falling into the Atlantic Ocean, and leaving the same within the territories of the United States, until *such line, so protracted, shall intersect* a line drawn due north from the source of the river St. Croix; which point of intersection must, therefore, incontrovertibly be the north-west angle of Nova Scotia, required to be ascertained by this honorable Board, under the 5th article of the treaty of Ghent, agreeably to the inferences, in this regard, made in the 15th section of the reply of the undersigned to the claim and opening arguments of the Agent of the United States, and in conformity with the provisions, in this regard, of the 2d article of the treaty of peace, of 1783."

APPENDIX, No. LVI.

EXTRACTS

FROM

THE REPORTS OF THE SURVEYORS

UNDER

THE FIFTH ARTICLE OF THE TREATY OF GHENT.

From the "Appendix to the Proceedings of the Commissioners."

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- (m) W. F. Odell, H. B. M. Surveyor, 1820; Sources of Penobscot; Views from various places.
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Appendix. No. 56.

Extracts from the Reports on the Surveys under the 5th article of the Treaty of Ghent.

(a) Jos. Bouchette, Surveyor. North Line. Surveys Nos. 2 and 27.

"On the 30th we again proceeded on the line, with twenty days' provisions, from the River St. John; after having ascended its banks, and until we reached the 91st mile, the ascents and descents were not materially conspicuous, but we went over several pine ridges and through several swamps, from the 91st mile the land generally ascended until we intersected a large stream, which we at first took to be the Grand River, but proved afterwards to be the River which empties itself close to the Great Falls on the River St. John; from that River the land generally ascends to the Restigouche Portage, which we intersected at 97 miles 32 chains and 80 links: this por-

tage leads from the Little Waganses on the Grand River to the Great Waganses or South Branch of the Restigouche, and is extremely crooked, six miles in length, and its general course is N. N. E. and S. S. W.; but where it was intersected by the line it bore N. 50° E.; this part of the country is conspicuously high, and is the summit of a range of highlands which stretches towards the S. W. and another Branch seems to detach itself at no considerable distance to the West in a North-west direction. The descent at the Waganses is steep, and continues descending alternately by gradual and steep ridges a distance of 43 chains; at 99 miles deviated from the course of the line on a bearing astronomically N. 54° W. 4 chains to the Great Waganses or first branch of the waters of the Restigouche, where we ended the exploring survey."

Appendix
No. 56.

Extracts from the
Reports of the Sur-
veyors, under the
30th article of the
Treaty of 1818.

(a)
Jas. Gouchette,
British Surveyor -
North Line. Sur-
veys Nos. 2 and 27.

"After rising the Northwardly bank of the St. John, we found the country mostly flat and swampy, until about the 91st mile, where a moderate ridge divides the waters of Falls River from those of Grand River. North of Grand River, between the 93d and 94th miles is a ridge, though probably higher than any land we had passed over on the line, appears not to be of any considerable extent; from this to the 98th mile, we passed through a large swamp, which gives rise to the Waganses of the Grand River. About the 98th mile, or from the 97th to the 99th miles, we crossed the ridge called Sugar Mountains, which divides the waters of the St. John's River from those of the Restigouche River, and is evidently the highest land we passed over on the line during the season. The extent of this Ridge is not particularly known, but it probably extends to the West and North West on the one hand, and to the East on the other, sufficiently to divide the waters of the above said Rivers."

(b)
John Johnson
British Surveyor -
North Line. Sur-
veys No. 1.

"The general face of the country may be considered as increasing moderately in elevation from the Restigouche Northward, to within two or three miles of the Grand Foureche, and then descending very rapidly to that stream. It is well wooded with a luxuriant growth of tall thrifty timber, a mixture of hard wood, fir and spruce, with some pine; the mountain ash is abundant, and there are a very few wild cherry trees: contrary however to what is usually met with, the soft wood grows mostly in the valleys, and the hard wood on the tops of the hills; the greater part of this extent appears to be excellent farming land.

(c)
W. F. Odell, B.
tch. Surveyor -
North Line. Sur-
veys No. 1.

"The River Restigouche, from where the line intersects it down stream, is copied from a Map; its general course, however, so far as I can judge from the bearings and observations taken in a canoe, as we returned from our Camp on the Grand Foureche to the Waganses, is correct, and from the estimated distance from where the line intersects the Grand Foureche to the mouth of that stream, and thence up the Restigouche to the Waganses; and from the appearance of the current of both these streams, I am of opinion that there is not much, if any difference, in the level of the water at these two places.

"Immediately after crossing the Grand Foureche, the ground rises very steeply for about three-quarters of a mile, and very moderately for a quarter of a mile more, forming a high bank to the River, and pursuing apparently the same course with the stream, and has the appearance of being the highest point intersected by the line run this year: it then descends moderately all the way to the Beaver River, hereafter mentioned; the surface, however, diversified into hill and dale like the rest, by the ravines and small streams with which it is intersected: but the ravines are not so deep, nor the banks of the streams so steep, as those to the Southward of the Grand Foureche. This tract also is well wooded with a tall luxuriant growth of timber, chiefly fir and spruce, with a mixture of hard wood and some pine. The pine, however, is mostly found near the borders of the Grand Foureche. I also met with some of the largest cedars that I have ever seen.

"On the 2d of September, we arrived at a stream fifteen miles and a half North of
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Appendix. the Grand Fourche, running to the *Westward*, to which we gave the name of *Beaver River*. On the borders of this stream where the line intersected it, is a piece of low, wild meadow, which was then overflowed in consequence of a dam made by the beavers, which had formed a large pond; above which are two smaller ponds, and immediately below the dam the stream is about two rods wide, the water quick and clear.

Extracts from the Reports of the Surveyors under the 5th article of the Treaty of Ghent.

(c)
W. F. Odell, British Surveyor.—
North Line. Surveyors' No. 4

At a short distance from the stream on both sides, the ground rises moderately, but the elevation is very small, and there is no appearance of highland."

"On the 18th of September, the party reached the River St. John, and proceeded to Mars Hill, where they arrived on the 28th, and were employed until the 3rd of October, in clearing away the wood on the South Peak, in order to get a view of the surrounding country; the same thing was done by Mr. Johnson's party on a part of the North Peak looking to the South West.

"The North Peak was found by a Survey made by Mr. Haren, to be about six miles in a Westerly direction from the mouth of the River Deschutes, (a small Branch of the St. John,) from which place the general surface of the ground rises moderately for about five miles, and steeply for the rest of the way to the top of the Peak, which is distant by measurement a due west course one mile and six chains from the exploring line run last year, and fifteen chains and seventy links South of the 42 mile tree.

"The South Peak is distant by calculation from the North Peak, one mile seventy-five chains and twenty-five links, on a course South 20° 57' West by Magnet, and exceeds it in height upwards of one hundred feet; between the North and South Peaks is another Peak lower than either.

"In a South-westerly direction from Mars Hill, and about sixty miles distant, is a range of very high and apparently bald mountains, extending in a westerly direction, called by Mr. Johnson the "Spencer Mountains," and connected with these, and extending round to the North west, a number of high and conspicuous hills, all connected by lower ranges of land; and in a direction a little southward of the line of view from Mars Hill to the Spencer Mountains, is another high mountain, of a conical shape, distant about forty miles from Mars Hill, supposed to be Cathain, and apparently connected with Mars Hill and the Spencer Mountains by ridges which cannot be particularly described, the ground in that quarter being in every direction all high broken land, but as viewed from Mars Hill, appearing to rise generally from the foot of that hill towards the Cathain and Spencer Mountains.

"On the North-east side of the River St. John, the land appears high, and broken into hills and ridges, stretching in all directions without regularity, and in the Southern quarter there appears some very high land, which seems to stretch round to the East, but so distant that its direction could not be clearly ascertained.

"In the due North direction, there appears to be less inequality in the face of the country than in any other."

(d)
J. Johnson, U. S. Surveyor. North Line, &c. Surveyors' No. 3.

"At the entrance of the Grand Portage, considering that some useful information might be obtained of the country, without delaying beyond the time which it was expected Mr. Odell would be at Grand River, a survey of the Grand Portage was taken from St. Andre, on the River St. Lawrence, to Temiscouta Lake, including in said survey the altitude and depression of the ground the whole way, and shewing the difference in height of said River and Lake. Owing however to the imperfection of the instrument made use of on this occasion, the angles of altitude and depression cannot be fully relied on. Through Temiscouta Lake and down Madawaska River, it was impossible to take an exact survey, owing to the impracticability of going on the banks, on account of the great quantity of brush wood; such sketches were however taken, and estimates made of the distances, as it is believed will give a tolerably correct view."

"We left Grand River on the 21st, agreeable to previous arrangements, and on the 24th the United States' party encamped on Mars Hill, which we found very advantageous for viewing the adjacent country. The two highest peaks of this Hill lie nearly North and South, at something more than two miles distance, and are elevated about one thousand feet above the general level of the adjacent country, which in the vicinity is low and swampy, though considerably elevated above the waters of the St. John.

"There being no hills within considerable distance of Mars Hill, and those nearest being generally of less magnitude than those which are more distant, affords a very extended view of the country, and enabled me to take observations at two stations to all the mountains which are numbered on the Map, and observations at one station to various other heights, and to other objects which could not be identified at both stations."

"In pursuing the line North from where it was left in the autumn of 1817, we found no hills of any considerable magnitude, until we arrived at or near 112 miles, where we crossed a ridge apparently higher than any land South of it on the line.

"After this we found hills or long extended ridges, tending generally to the North-west and South-east near the 113th mile; at the 114 mile; between the 116 and 117 miles; between 118 and 119 miles; between 120 and 121 miles; between 122 and 123 miles; at 125 miles; between 127 and 128 miles; near 129 miles; between 130 and 131 miles, and at or near 132 miles. These ridges appear generally to exceed each other in height as you go North, the last mentioned ridge at the place where we passed it being considered higher than any other we passed either North or South of it on the line, but soon falls off towards the West, and extends 4 or 5 miles South-east. Between those ridges are numerous small streams, as will appear on the Map, whose waters pass by a rapid descent into the Restigouche River.

"Proceeding North from the last mentioned ridge, the land continues very high and not very uneven to 144 miles 26 chains, where the land is nearly as high as at 132 miles, and is the Ridge which divides the waters emptying into the River St. Lawrence from those which fall into the Atlantic Ocean. On the top of this ridge, at the aforesaid distance of 144 miles 26 chains, is a large yellow birch tree; from this point to Beaver Creek there is a general and very considerable descent, interrupted by a few places of rising ground for short distances.

"At Mars Hill I took observations to ascertain the position of 112 terrestrial objects, the most of which are peaks of hills or mountains. The peaks identified at two stations are laid down on the Map, and numbered to correspond with the numbers of the respective observations which identify their places."

"Before giving a description of the other mountains, it may be proper to give an exact description of Mars Hill. The South peak and place of observation is situated 39 miles 58 chains and 50 links North of the Monument, at the source of the River St. Croix, and 1 mile 22 chains 19 links West of the exploring line. The North peak and place of observation is situated 41 miles 64 chains and 30 links North of the Monument aforesaid, and 1 mile 6 chains West of said exploring line. From the North to the South peak of said Hill is S. 5° 36' 40" W. 2 miles 6 chains and 60 links, and the nearest distance from said line to the foot of said Hill is 42 chains. The South Peak is 175 feet higher than the North Peak, and about 1000 feet above the general level of the adjacent country.

"The position and elevation of the other mountains will mostly be given in tabular form, opposite to which is given a view of them, as seen from Mars Hill. The South Peak of Mars Hill will be considered as being 1000 feet above the general level, and others will be given in that proportion."

Appendix.
No. 36.

Extracts from the
Reports of the Surveyors
under the
5th article of the
Treaty of Ghent.

(2)
J. Johnson, U. S.
Surveyor, North
Lane, &c., Survey,
No. 3.

"MOUNTAINS.

Appendix.
N. 56.

Extract from the
Reports of the Sur-
veyors under the
5th article of the
Treaty of Ghent.

(g)
J. Johnson U. S.
Surveyor, North
Lane, &c. Surveys
No. 3.

| NO. OF OBSERVATIONS. | NORTH OF MONUMENT. | | | WEST OF EX-PLORING LINE. | | | HEIGHT IN FEET. | NO. OF OBSERVATIONS. | NORTH OF MONUMENT. | | | WEST OF EX-PLORING LINE. | | | HEIGHT IN FEET. |
|----------------------|--------------------|---------|--------|--------------------------|---------|--------|-----------------|----------------------|--------------------|---------|--------|--------------------------|---------|--------|-----------------|
| | MILES. | CHAINS. | LINKS. | MILES. | CHAINS. | LINKS. | | | MILES. | CHAINS. | LINKS. | MILES. | CHAINS. | LINKS. | |
| 1 | 39 | 58 | 50 | 1 | 22 | 19 | 1000 | 7 | 7 | 12 | | 19 | 12 | | 792 |
| | 41 | 64 | 30 | 1 | 6 | | 825 | 8 | 7 | 43 | | 19 | 61 | | 778 |
| | 11 | 22 | 30 | 10 | 48 | | 792 | 9 | 15 | 64 | | 18 | 20 | | 531 |
| 2 | 10 | 36 | | 12 | 51 | 40 | 614 | 10 | 25 | 36 | | 13 | 36 | | 577 |
| 3 | 7 | 12 | | 14 | 59 | | 737 | 11 | 16 | 44 | | 21 | 50 | | 646 |
| 4 | 9 | 4 | | 15 | 22 | | 1071 | 12 | 15 | 60 | | 23 | 21 | | 971 |
| 5 | 9 | 22 | | 16 | 25 | | 865 | 13 | 21 | 5 | | 20 | 52 | | 828 |
| 6 | 6 | 24 | | 19 | 25 | | 864 | 14 | 29 | 17 | | 12 | 73 | | 663 |

"MOUNTAINS.

| NO. OF OBSERVATIONS. | NORTH OF MONUMENT. | | | WEST OF EX-PLORING LINE. | | | HEIGHT IN FEET. | NO. OF OBSERVATIONS. | NORTH OF MONUMENT. | | | WEST OF EX-PLORING LINE. | | | HEIGHT IN FEET. |
|----------------------|--------------------|---------|--------|--------------------------|---------|--------|-----------------|----------------------|--------------------|---------|--------|--------------------------|---------|--------|-----------------|
| | MILES. | CHAINS. | LINKS. | MILES. | CHAINS. | LINKS. | | | MILES. | CHAINS. | LINKS. | MILES. | CHAINS. | LINKS. | |
| 15 | 31 | 2 | 50 | 11 | 52 | 20 | 750 | 32 | 28 | 58 | | 59 | 31 | | 1205 |
| 16 | 11 | 32 | | 32 | 69 | | 2008 | 33 | 34 | 76 | 90 | 36 | 19 | | 715 |
| 17 | 32 | 49 | 90 | 10 | 75 | 50 | 857 | 34 | 32 | 12 | 70 | 53 | 43 | | 1511 |
| 18 | 32 | 66 | 80 | 11 | 27 | 10 | 1014 | 35 | 33 | 50 | 20 | 47 | 65 | | 1756 |
| 19 | | 33 | | 50 | 17 | | 4645 | 36 | 33 | 56 | 40 | 52 | 74 | | 1916 |
| 20 | 32 | 26 | 60 | 13 | 19 | 45 | 1083 | 37 | 35 | 79 | 50 | 51 | 20 | | 2249 |
| 21 | 9 | 61 | | 49 | 23 | | 3085 | 38 | 37 | 14 | 10 | 43 | 20 | | 1694 |
| 22 | 11 | 30 | | 50 | 13 | | 2814 | 39 | 38 | 69 | 20 | 44 | 34 | | 1626 |
| 23 | 14 | 69 | | 49 | 28 | | 2505 | 40 | 39 | 4 | 60 | 47 | | | 1940 |
| 24 | 33 | 51 | 80 | 22 | 40 | | 525 | 41 | 39 | 37 | 90 | 45 | 43 | | 1476 |
| 25 | 28 | 15 | | 39 | 67 | | 707 | 42 | 39 | 60 | 20 | 44 | 61 | | 1190 |
| 26 | 36 | 41 | 90 | 18 | 10 | | 480 | 44 | 41 | 44 | 15 | 45 | 10 | | 1450 |
| 27 | 24 | 12 | | 58 | 9 | | 1261 | 45 | 43 | 9 | 90 | 47 | 43 | | 2152 |
| 28 | 32 | 69 | 90 | 31 | 67 | | 748 | 46 | 43 | 79 | 90 | 45 | 48 | | 1424 |
| 29 | 37 | 36 | 60 | 17 | 4 | | 448 | 47 | 44 | 55 | 10 | 46 | 25 | | 1924 |
| 31 | 33 | 75 | 30 | 33 | 48 | | 449 | 48 | 43 | 6 | 80 | 19 | 42 | | 971 |

MOUNTAINS.

Appendix.
No. 56.

| NO. OF OBSERVATIONS. | NORTH OF MONUMENT. | | | WEST OF EXPLORING LINE. | | | HEIGHT IN FEET. | NO. OF OBSERVATIONS. | NORTH OF MONUMENT. | | | WEST OF EXPLORING LINE. | | | HEIGHT IN FEET. |
|----------------------|--------------------|---------|--------|-------------------------|---------|--------|-----------------|----------------------|--------------------|---------|--------|-------------------------|---------|--------|-----------------|
| | MILES. | CHAINS. | LINKS. | MILES. | CHAINS. | LINKS. | | | MILES. | CHAINS. | LINKS. | MILES. | CHAINS. | LINKS. | |
| 49 | 43 | 31 | 70 | 19 | 44 | | 975 | 65 | 60 | 29 | | 52 | 55 | | 1213 |
| 50 | 43 | 55 | 60 | 19 | 30 | | 963 | 66 | 68 | 73 | | 51 | 45 | | 1609 |
| 51 | 45 | 36 | | 22 | 40 | | 959 | 67 | 62 | 16 | | 37 | 49 | | 1180 |
| 52 | 45 | 63 | 70 | 19 | 11 | | 1010 | 68 | 70 | 26 | | 49 | | | 1571 |
| 53 | 49 | 62 | 50 | 21 | 17 | | 799 | 69 | 72 | 14 | | 46 | 47 | | 1288 |
| 54 | 51 | 68 | 30 | 20 | 34 | | 630 | 70 | 67 | 25 | | 34 | 42 | | 1255 |
| 55 | 42 | 61 | 67 | 10 | 25 | 50 | 488 | 71 | 66 | 10 | | 31 | 58 | | 801 |
| 56 | 43 | 32 | 10 | 10 | 27 | | 643 | 72 | 68 | 50 | | 33 | 57 | | 1301 |
| 57 | 45 | 28 | 80 | 10 | 40 | | 591 | 73 | 69 | 63 | | 32 | 65 | | 1389 |
| 58 | 46 | 5 | 90 | 10 | 76 | | 525 | 74 | 71 | 13 | | 31 | 57 | | 1200 |
| 59 | 54 | 8 | 30 | 6 | 50 | 40 | 432 | 77 | 64 | 46 | | 15 | 15 | | 463 |
| 60 | 55 | 30 | | 6 | 46 | | 357 | 78 | 69 | 47 | | 15 | 62 | | 497 |
| 61 | 100 | 70 | | 8 | 30 | | 1090 | 79 | 82 | 32 | | 19 | 72 | | 624 |
| 62 | 46 | 38 | 20 | 18 | 43 | | 751 | 83 | 81 | 07 | | 10 | 79 | | 556 |
| 63 | 47 | 3 | 40 | 18 | 49 | | 780 | | | | | | | | |

Extracts from the Reports of the Surveyors under the 5th article of the Treaty of Ghent.

(2)
J. Johnson, U. S. Surveyor, North Line, &c. Survey No. 3.

"In the summer of 1817 sundry observations were taken to Mountains from Park's Place, which go fully to confirm the correctness of the situation on the map of several Mountains seen from Mars Hill. Green River Mountain, which we visited next after Mars Hill, lies about 54 miles north of the River St. John, and on the east side of Green River. Its elevation, by calculation, from the waters of the St. John at the entrance of Green River, is 1,074 feet, and from the waters of the St. John at the entrance of the Madawaska River, 1,043 feet; from which it appears that there is 31 feet fall in the waters of the St. John between the entrance of the Madawasky and Green Rivers, a distance of ten and a half miles.

"Green River Mountain was also seen from Mars Hill, and, by calculation from there, is 1,008 feet high, or eight feet higher than the South Peak of Mars Hill; and deducting 1,008 feet from 1,074 feet leaves the general level of the lands in the vicinity of Mars Hill 66 feet higher than the waters of the St. John at the entrance of Green River aforesaid. The height of Siegas Mountain, as seen from Mars Hill, is 1,090 feet, and as seen from Green River Mountain is 1,082 feet, making a difference of only eight feet between the calculation taken from Mars Hill to Green River Mountain, and thence to Siegas, and that taken from Mars Hill to Siegas direct. Taking it for granted, from the foregoing facts, that the relative height of Mars Hill and Green River Mountain has been well ascertained, I will proceed to give an account of the country as seen from said mountain. Many of the mountains which had been seen from Mars Hill were again observed from this mountain, and their places, as given on the map, identified with additional certainty. From this Mountain the Highlands which divide the waters running into the River St. Lawrence from those which fall into the Atlantic Ocean were also seen from the exploring line as far west as Timiscouata Lake. At a distance these Highlands assume a very regular appearance, being not much diversified by peaks of hills and intervening valleys. By taking the general elevation of these Highlands, and knowing very nearly their distance the general height is computed at 2,200 feet, being 1,200 feet higher than the south peak of Mars Hill, and higher than the tops of any mountains south of the River St. John, within 49 miles west of the exploring line, or between the said line and the River St. John.

Appendix.
No. 56.

Extracts from the
Reports of the Sur-
veyors under the
5th article of the
Treaty of Ghent.

J. Johnson, U. S.
Surveyor — North
Line, &c. Survey,
No. 3.

"In pursuing the foregoing subject by observations taken at Mars Hill, it was ascertained that the highest land south of Listook River, which is about half a mile east of the line, is 12 feet. The highest land south of the St. John, being westerly of the Grand Falls and directly on the line, is 434 feet, and the highest land in sight, in the direction of the line north of the River St. John, supposed to be Sugar Mountains, which, taking that to be the fact as respects the distance, is 1,036 feet.

"The Highlands south of the River St. John, and those south of the Listook River above mentioned, fall off within a little distance west of the line into low, swampy lands which extend from a low ridge which forms the south bank of the River St. John, as far south as the source of the River St. Croix, and several miles west, with the exception only of Mars Hill, which, as has been heretofore stated, is surrounded on all sides by the same glade of low land."

W. F. Odell, Brit-
ish Surveyor —
Restook River, &c.,
Survey No. 7.

"On my way from Frederickton to Des Chutes I met with a man named Wilsey, who, in the year 1789, went from the River Maductsinieck on a direct course to Quebec. From this man's account of the country, I was led to expect that near the forks of the Restook I should find a mountain from which a very commanding view of the country would be obtained: I therefore deemed it my duty to proceed up the river as far as possible, in the hope of reaching this mountain, and thus obtaining a correct knowledge of the face of the country, which cannot be done to any extent on the river, the banks of which are generally low and covered entirely with wood, so that the view is very circumscribed, and then of reaching either the sources of the St. John or the Penobscot, where we should again have an opportunity of making observations from the top of Cathadin and of other mountains, which we had already ascertained to be situated in that quarter. We therefore proceeded as fast as the transportation of the stores would admit: but when we had proceeded about ten miles up the South Branch, by which the Indians say that they usually go to the Penobscot, we found the water falling so fast as to preclude our going any further with the boats; and being convinced that Wilsey had mistaken the situation of the mountain which he had described, we returned to a station about fifty-two miles from the mouth of the Restook, where we had observed a mountain of considerable height very near the river, and from which there appeared to be a prospect of obtaining an extended view, which, as before remarked, could not be had from the river. Upon this mountain we cleared a spot and erected a stage, from which we had a good view of Mars Hill, and of the mountains to the westward of it. From this station the country to the westward of Mars Hill appears high and mountainous, composed of ridges lying mostly parallel to each other, generally running in a northwardly and southwardly direction, but forming altogether a mountainous chain, extending nearly north-east and south-west, the land in the south-western quarter being evidently the highest; and this mountainous chain appears to continue north-easterly towards the head of the Bay of Chaleur, as there is a conspicuous range of very high land extending in that direction, and apparently connected with Mars Hill, or with the Moose Mountain, which lies opposite to it on the north-eastern side of the River St. John. This view of the country fully confirms the remarks made last year on the general appearance of the ground as seen from Mars Hill: and the opinion then given is still further confirmed by the River Restook, the general course of which is from south-west to north-east nearly, and its current for the most part uniform and of considerable strength, which proves the elevation of the general surface of the country, added to which are the observations of Mr. Campbell, since made on the top of Mount Cathadin, and contained in his report hereto subjoined."

"The plan accompanying this report exhibits our survey of the River Restook so far as we proceeded, and also a sketch of the country as it appeared to me when viewed from Mars Hill and from Park's, near the Houlton Settlement."

"After much difficulty and detention, owing to the low state of the water in the rivers, and the consequent number of carrying places, got to the Penobscot, by descending the Matawamkeig on the 6th of October, and on the 14th to the small River Abaljakomigas, from whence Kathardin lies North 40° East distant about $7\frac{1}{2}$ miles."

Appendix.
No. 56.
Extracts from the
Reports of the Sur-
veyors under the
5th article of the
Treaty of Ghent.

"The day being dark and overcast, returned to the base of the Mountain, and encamped. After several days detention, in consequence of thick weather, snow and hail storms, succeeded on the 19th in getting a most commanding view from the peak.

"In a north eastern direction there is a chain of mountains and ridges extending from Cathardin towards the River St John, in the neighbourhood of Mars Hill, which chain appears to split or fork at the distance of about 30 miles from Cathardin, one range taking a course towards Mars Hill, and the other running nearly parallel to the Restook River. This ridge or chain of mountains and hills appears connected with a very high mountain at the source of the south branch of the Restook, which lies North 15° East, distant 15 miles; the Lake at the foot of it is seen distinctly also.

"In a South-western direction the chain continues as far as the eye can reach, by ridges and mountains, first toward the Spencer Mountains, which lie South 80° West, distant about 25 miles, and thence more northerly to very high lands, supposed to be those dividing the Kennebec waters from those of the Chaudiere, which are to be plainly seen extending in direction nearly North 50° East and South 50° West. In every other quarter the land is comparatively low, except one long blue ridge in a North-west direction, extending north-east and south-west, distant about 30 miles, and some detached hills, said by the Indians to be at the sources of Union and Naraguagis Rivers, bearing South to South 20° East. Upwards of sixty lakes and ponds are visible from the Peak of Cathardin; among the rest Chesunook, North 50° West, distant about 9 miles; and Aphmoogeene Gamook, North 20° West, distant 13 miles; also the communication between them by the Umbazucous Stream.

"As the day was clear, and the view very extensive in every direction, I am confident that there are no high lands north of the sources of the Chaudiere and Kennebec, except the ridges above mentioned. The existence of a chain of Highlands, from Mars Hill or its neighbourhood toward Cathadin, and thence to the head of the Kennebec is certain. The great height of Cathadin causes the other mountains and hills, forming this chain, to appear to great disadvantage, not only in its immediate neighbourhood, but to a considerable distance in every direction; but they are still very conspicuous from the top; and such as are visible when only part of the way up to the peak, look much higher than when on it."

"On the 7th March, 1820, the season being sufficiently advanced for renewing the exploring survey, I left St. Andrew's and proceeded with my party by water to Belfast, and thence across the country to Norridgewock, on the Kennebec; from whence we pursued the Quebec Road to what is commonly called the Height of Land, lying between the Kennebec and Chaudiere Rivers."

"On this ridge is a large Birch Tree standing on the road, which appears to be on the highest part of the ridge, and is marked by the Canadian and American Surveyors, as the spot to be measured from each way on the new route from Kennebec to Quebec; from this tree proceeded to explore on both sides."

"Four miles north-east of the marked tree found the spotted line used by the drovers on their route to Canada. A tree on the summit, marked with a great many names, and called the Old Boundary."

"At one mile more (say 11 miles) intersected a stream running north-easterly,

(E)
Colin Campbell
British Assistant
Surveyor. Mount
Kathadin, &c.—
Surveys No. 15

Appendix.
No. 56.

Extracts from the
Reports of the Sur-
veyors under the
5th article of the
Treaty of Ghent.

(5.)
Colin Campbell,
British Assistant
Surveyor Mount
Kathadin, &c.—
Survey No. 15.

taking its rise out of three fine springs; followed it down; stream very crooked and leading through three Lakes: after tracing it ten miles, found it at length running to the north-west, quite a large river nearly a chain wide, and winding round the foot of a high, hard wood hill. Ascended the same, about forty chains to the top, and had a good view to the northward and westward; saw the river just left keeping a north-westerly course toward the Chaudiere. The land in that quarter, as before described: another small hill south-west of this about a mile distant; saw distinctly the course of the ridge we have been exploring, extending north-east and south-west, distant two and a half miles to three, which proves the very crooked course of the river. Returned to the summit of the Main Ridge, from whence I saw a stream running south-easterly along the foot of the ridge, found its source in a Cedar and Spruce swamp on the south-east face of the ridge measured; from thence north-west, across the summit of the ridge to one of the lakes on the other side, and found the distance only 60 chains: this is the lowest vale we have yet found in the ridge; traced this last mentioned rivulet down stream several miles in a south-easterly direction, through one large and two smaller lakes, and thence by a large rapid stream until it joins the west Branch of the Penobscot, as will appear by a reference to the sketch accompanying this report.

“Conceiving it clearly proved that we are thus far on the real high lands dividing the waters, and having seen that height stretching to the north-east for many miles, continued to trace it.”

“At about 22 miles the Main Ridge assumed a different appearance and shape, but continues nearly the same course; instead of a regular ridge as heretofore running straight, there is now a succession of high mountains and ridges, some of them two and three miles in length, lying E. N. E. and W. S. W. and some of them East and West, and a number of detached hills and mountains on either side, at two, four, and even six miles distance from the main ones, among which are ponds and small lakes with outlets or streams, some running to the north and others to the south, taking their rise in the neighbouring hills, and running through the intermediate valleys; at same time a north-east course by magnet intersects most of the highest peaks; examined many of the mountains lying farthest to the north-west, and found the face of the country low, and no ridge extending in any other direction. At 35 to 40 miles along the chain of mountains forming the main ridge, saw a cluster of mountains lying North, distant about 6 miles, and not immediately connected with it, although the land is high and broken between them. Set out for the highest, distant 6 miles, expecting to find the sources of the Penobscot (Middle Branch) and St. John Rivers among them; from the top of this Mountain had a very commanding view; some smaller detached hills lie North to North-west, distant 3 to 4 miles, beyond which we had a view of 30 to 40 miles in those directions, and there is no ridge of any description in either of those courses; but the land continues low, except where there are occasionally small swells of mixed growth; had a most advantageous view of the main ridge just left, stretching about four miles from my last station on it, in a broken manner, to the North-east, and then apparently more connected and very distinct, stretching about E. N. E. at least 20 miles, toward a high mountain, bare at top, distant 30 or 35 miles, which can be no other than the Restook Mountain, and thence more northwardly, say N. E. towards a very high mountain with two bare peaks, at a very great distance, and much resembling Mars Hill, near the River St. John. The same ridge also extends in a south-west direction as far as the eye can reach, and the clefts or valleys through which the streams run, as before described, are plainly seen: determined as a further proof to explore the sources of the St. John and Penobscot among those mountains: at one mile, in an eastern direction, struck a branch of the latter near its source, rising out of several large springs, and running

south-east. Continued an east course 40 chains further, to another branch; followed it down stream, very crooked, four or five miles, where it was much increased by the junction of the stream last passed. The general course about South 25° East; at about 4 miles more, general course nearly south, came to the main Branch of the Penobscot, running South-west to South-east, and at about 1½ miles further runs east, between two hard wood hills, forming part of the main chain or north-east ridge, from the confluence of this last stream, which the hunters call "Fletcher's," with the main branch of the Penobscot; followed the latter up stream three miles, course North 45° East; thence 6 miles (very crooked), general course up stream North 25° West to North 25° East, thence North through a bog 2 miles, thence North 5 miles, to a carrying place near the source, being now very small; crossed the same carrying place in a North-east direction, the land low to the St. John River, navigable for light canoes."

Appendix
No. 36.
Extracts from the
Reports of the Sur-
veyors under the
5th article of the
Treaty of Ganett.
Colin Campbell
British Assistant
Surveyor of Mount
Kathadin, &c.
Surveys No. 15.

"I left Burlington. (Vermont) on the 13th of June, 1819, accompanied by my assistants, Messrs. Burnham, Partridge, and Hunter, and arrived at Quebec on the 15th of the same month. The Commissary, Mr. Powers, proceeded in advance to St. Andre, for the purpose of expediting the transportation of the provisions across the Grand Portage. On the 22d of June, myself and assistants left Point Levi for St. Andre, where we arrived on the 25th, and where I found Mr. Powers, zealously engaged in making arrangements for the transportations of the provisions. On the 26th, myself, assistants, and the men, left St. Andre and proceeding across the portage on the foot, reached Lake Tinniscouata on the following day. The route across the portage, naturally bad, was at this time rendered much worse than usual, in consequence of the heavy rains which had recently fallen. This, while it made our march very fatiguing, considerably retarded the progress of the provisions. I commenced a series of Barometrical and Thermometrical observations, at high water mark at St. Andre, which was extended across to Lake Tinniscouata. I remained at the Lake two days, when I determined to proceed on in advance to the mouth of the River De Chute, leaving the assistants to come on with the provisions. Accordingly, on the 30th June I left Lake Tinniscouata in a canoe, and continuing my Barometrical observations, reached the mouth of the River De Chute on the 3d of July."

Adrian Partridge,
U. S. Surveyor,
Tinniscouata Por-
tage, &c. Surveys
Nos. 5 and 6.

"Mars Hill is an insulated eminence, (having no connection that I could discover with any ridge of Highlands,) situated about one mile and six chains due west from the eastern boundary line of the United States, as at present explored. It consists of two peaks, the Northern and Southern, which are in a right line, two miles six chains and sixty links apart; but to get from one to the other, it is necessary to travel about two miles and a quarter. The South is the highest. The prospect from this Hill is very fine and extensive. To the South-west, at a great distance, appear some lofty peaks of Mountains, the most elevated of which is supposed to be Mount Kathadin, near the Penobscot River. To the West are some eminences of less elevation. To the North-west and North the country appears to rise pretty uniformly, and finally to terminate in a ridge of elevated land, which extends, to appearance, nearly in a North-east and South-west direction, as far as the eye can reach. Indeed the whole country to the West, and as far North as the ridge just mentioned, setting aside the small inequalities on its surface, appears to form one immense inclined plane fronting towards the South, with a gentle inclination to the East. The whole extent is still in a state of nature, without the habitation of a single civilized being to adorn its surface."

"I left Point Levi, accompanied by my assistant, Mr. Partridge, and passing through a well cultivated and picturesque country, reached the upper settlements, on the Chaudiere, on the first of September. On the second of September, having engaged two Frenchmen as guides and packmen, with a horse and cart to aid in trans-

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Extracts from the
Reports of the Sur-
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Treaty of Ghent.

—
Alden Partridge,
U. S. Surveyor —
Tombacuta Por-
tage, &c. — Surveys
Nos. 5 and 6.

porting our provisions and baggage, we entered the Wilderness; and on the morning of the 4th arrived at the Monument on the highlands, distant from the upper settlements, on the Chaudiere, 29½ miles, and from Quebec 95½ miles.”

“The road is cut through to the Highlands, and so far worked that we got on with our cart to within one mile of the Monument, where we left it. The Monument, so called, is a small carved image of wood (suspended against a large birch tree), holding a sword in one hand and a flag and sword in the other. This station has been agreed upon by the Road Commissioners on behalf of the province of Lower Canada and of the State of Massachusetts, as the summit of the ridge of highlands which divides the waters flowing Northerly into the St. Lawrence, from those that flow Southerly into the Atlantic; and they have consequently fixed upon it, as the point where the Province and State roads, respectively, shall commence and terminate.”

“On the 7th of September we resumed our course, and on the 10th arrived at Hallowell, to which place the tide in the Kennebec reaches. Here I terminated the series of Barometrical and Thermometrical observations, which had been regularly continued from Point Levi to this place, a distance of two hundred and thirty-six miles.”

TABLE OF ALTITUDES.

| | | | |
|--|--|-------|---|
| Grand Portage. | Grand Foureche Mountain . . . | 1,336 | Above Tide Water of the St. Lawrence at St. Andre. |
| | Paridis Mountain | 1,309 | |
| | Bier Mountain | 1,320 | |
| Mars Hill. | North Peak | 1,363 | Above the surface of the St. John at the mouth of the De Chute. |
| | South Peak | 1,504 | |
| Country from Point Levi to Hallowell, Maine. | Monument on the Highlands . . . | 2,002 | Above the surface of the St. Lawrence at Point Levi.” |
| | 1st height of land South of the Monument | 1,952 | |
| | 1st height of land South of Moose River | 2,082 | |
| | 2d height of land South of Moose River | 1,862 | |
| | | | |
| | | | |

No. 4.
W. G. Hunter, I.
S. Surveyor, Un-
deracuta Portage,
&c. — Surveys
Nos. 7, 9, 10.

“The Aliquash takes its rise in a large circular morass, about one mile and a half in extent, surrounded by a tract of land extremely low and marshy. A slight increase of the streams, uniting in this morass, gives it, probably, the appearance of a pond, but at all times the same muddy pond by which it seems heretofore to have been designated will be appropriate. The timber about the margin of this morass or pond is of a very inferior growth and quality. No heights of land are observable in any direction, save the lofty summits of Katahdin, which, from their superiority over any eminences thereabout, may not only be distinctly observed from this, but from several other points on the river. The Aliquash, at first a mere rivulet, flows from this morass in nearly a due North direction, about two miles and a half; and, at the termination of this distance, contributes to the formation of a very extensive body of water, called Chimney Lake. The current of the river, from its source to its entrance into this Lake, is alternately rapid and gentle, but most of the distance of the latter description; so extremely small is the quantity of water thus far from the source, that in order to render the navigation of it practicable, the stones have been heretofore removed from the channel of the river. Chimney Lake is by far the most extensive body of water through which the Aliquash passes in its course: its shores are rocky but no where bold. There are a few slight elevations of land observable near the Lake; but the general surface of the adjacent country is flat; the timber immediately on the borders of the Lake is cedar, spruce, poplar, and white birch, interspersed with inferior pine. Apparently there are but very few tributary streams to this lake; the extent of

it, however, rendered my knowledge on this subject very imperfect. Upon the surface of the Lake, Katahdin once more attracted my attention. It appeared to be at considerable distance, and in a South-easterly direction from me. In the intervening distance, near Katahdin, many other lofty peaks were observable. Actuated by a belief that a prospect from some one of these summits, if I should not succeed in attaining that of Katahdin, would afford a more perfect idea of the general surface of the country than any limited view I could possibly have from the river, I directed my steps towards them. I did not gain the summit of Katahdin, but near it I ascended a peak, the prospect from which probably subserved the same purposes of information that the ascension of Katahdin itself would have done. In a Westerly direction, at a great distance, a blue ridge was clearly distinguishable; it continued North until intervening objects shut it from your view. This ridge appeared extremely uniform in its height, and gradual in its rise. Nearer, and in a direction a little South of West, the surfaces of Moose-head and Chesuncook Lakes were observable; also many considerable eminences, among which were Spencer Mountains. In a Southerly direction, the country lying between the Penobscot and Kennebec Rivers was broken and mountainous; East and North the country presented a variegated scene of hills, lakes, and valleys. The general surface, however, appeared level. The eminences were small and isolated. The country, surveyed from this elevation, is finely watered with small lakes and ponds, the surfaces of which, from my elevated situation, gave the only diversity to the scene, or relief to the eye, as it wandered over the immense wild beneath me. Katahdin is apparently the loftiest mountain in this region. Its base is very extensive, the streams in the vicinity of this mountain are tributary to the Penobscot; the surface of the country, traversed in performing this tour to the Mountain, alternately rose and fell; the ascents, however, were small; considerable quantity of hard wood covered the most elevated parts. The distance of the Mountain from Chimney Lake I have estimated at twenty miles. The discovery of the only tributary stream, to the last mentioned lake, laid down on the map of the Aliquash, was made in the course of my tour to the mountain."

Appendix.
No. 56.

Extracts from the
Reports of the Sur-
veyors under the
5th article of the
Treaty of Ghent

Pl. No. 4
W. G. Bunker, A. S.
Surveyor. Umba-
suecus. Portage,
See. Surveys, Nos.
8, 9, and 10.

"The portage, leading from the source of the Aliquash to that of the Umbasuecus, is about two miles in length. The land, over which it passes, is level, and, until within a few chains of the small lake giving rise to the latter river, is quite marshy. The land descends a very little when near said lake, and is covered with a fine growth of hard wood.

"The source of the Umbasuecus, as before observed, is a small lake about three miles in length and one in breadth. A few swells of land rise immediately from its shores, but their magnitude is trifling. The Umbasuecus is about seven miles in extent, and discharges itself into Chesuncook Lake, after receiving, about half a mile from its mouth, Black River.

"The Umbasuecus, from its rise to its junction with Black River, is very small, and hardly navigable for canoes. The land through which it flows, though in some places marshy, is not uniformly level. One mile from the mouth of the Umbasuecus the Penobscot enters the same Lake.

"The Penobscot River, so called from the numerous falls and rapids with which it abounds, takes its rise in a marshy pond or morass, very similar to that giving rise to the Aliquash. There is a portage leading to St. John River, said by my guide to be only two miles and a half in length, from this source just described. No eminences are observable in this quarter. The land immediately adjacent to the head of the river is low and marshy and almost bare of wood about the pond. The whole extent of the land over which the portage to St. John River passed, if the truth of my guide may be relied on, was of the same description of that immediately surrounding the source of the Penobscot."

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No. 56.

Extracts from the
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veyors under the
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Treaty of Ghent.

"The maps only exhibit the waters I explored myself. In no instance has any thing been laid down on the authority of others. The information I occasionally derived from different sources, relative to the existence of lakes, ponds, streams, portages, and highlands, might with great safety have been relied on, yet I have only designated such as fell within the compass of my own observations."

1807
W. P. Odell, Brit-
ish Surveyor.—
Sources of Penob-
scot, &c.

"As soon as the party that had been sent for provisions returned, we proceeded up the Penobscot, and while the men were employed in carrying the stores and boats over the portages, into Chesuncook, I went with my assistant, Mr. Campbell, and a small party accompanied by Mr. Loring, the United States' Surveyor, into the Aphmoogene Gamook, the source of the Aliquash Branch of the St. John, intending, if possible, to explore the sources of the Restook, and of the Eastern Branch of the Penobscot, but the small streams were so nearly dry as to render this plan impracticable.

"The route from the Penobscot to the Aphmoogene is by the Umbazuckseus, a small stream emptying into the head of Chesuncook. This stream is completely serpentine, and perfectly still or dead water for a great part of its extent; running through a meadow fifty to eighty rods in breadth, and covered with rushes and coarse grass; above the meadow there is a moderate current. It takes its rise in a pond of the same name, about four miles long and about a mile in breadth. From this pond, a long, high ridge of land, called by the Indians Quacum Gamooksis (or little Gull Lake) Mountain, is seen bearing North-westerly, distant by estimation about twenty miles, and extending North-easterly and South-westerly.

"From Umbasuesus pond there is a portage of two miles to Pongum Gamook or Mud Lake, the first St. John Water; this Lake is about three miles long and nearly one in breadth, but very shoal, with a soft muddy bottom, and covered with pond lilies. The land immediately round the lake swampy. This lake discharges into the Aphmoogene, by an outlet which does not exceed a mile and a quarter in length.

"The Aphmoogene Lake is about fifteen miles in length and from two to three in breadth; the banks low and swampy. To the Eastward of this Lake is to be seen a very high range of Mountains, stretching North-east and South-west, Cathardin lying behind or South east of them. These Mountains appear to lie to the North-west of the East branch of Penobscot, and to divide the waters of that branch from this lake. We proceeded to the South-eastern end of the lake, and examined the stream described by the Indians as the route by which they go to the Restook, but found it too low to attempt; indeed most of these routes described by the hunters are practicable only in the spring, when the waters are high. We therefore returned to the Penobscot and pursued our journey up that river."

"The navigation of the Penobscot is very difficult, being very much interrupted with falls and rapids. The banks are in general but little elevated above the water; but about half a mile below the mouth of the eastern branch, there is a hill on the Western side called Sandy Hill, from the top of which there is a distinct view of Cathardin and of the range of Mountains before described seen from the Aphmoogene Lake.

"From the mouth of Chesseboos, a small stream coming into the Penobscot a few miles Westward of the head of Moose Lake, there is a distinct view of part of a range of Mountains, called by the Indians Guaspempistue, stretching North-east and South-west, distant about ten or twelve miles, and lying between the Penobscot and St. John Rivers.

"The sources of the Western branch of Penobscot are a little to the Westward of the Quebec Road, where this branch is divided into three small streams that are intersected by the road. The Northern branch takes its rise in a small pond, surrounded with bog, to the Northward of which is a small elevation of land, and a low ridge to the Westward.

" From the entrance of the Portage at the North-eastern shore of this pond, there is also a distinct view of Guaspempistue Mountains. Appendix.
No. 56.

" There is a portage of two miles in length from the pond at the head of the North Branch of Penobscot to a small branch of the St. John River. This portage is all bog and swamp, covered with small Yamaracs, except about half a mile, where the ground is a little more elevated, and the timber chiefly spruce; but the land still swampy. Extracts from the
Reports of the Sur-
veyors under the
5th article of the
Treaty of Ghent.
(m)
W. F. Odell, Brit-
ish Surveyor.—
Sources of Penob-
scot, &c.

" The Branch of the St. John to which the Portage leads is a small and very crooked stream, running through bog and swamp; the banks almost level with the water, and much obstructed with alders for about six miles, when it joins a larger stream coming from the Southward, called by the Indians and hunters the Main Branch, which takes its rise near the head of Chesseboe, in the Guaspempistue Mountains above mentioned. These two streams, about a quarter of a mile below their junction, discharge into a lake, called by the Indians Oolastaquon Gamook."

" On Tuesday the 19th September, set out down the Penobscot, on my route to the Aliquash River, a branch of the St. John. The stream below the fork $2\frac{1}{2}$ chains wide, and shallow: a narrow Island above two miles long commences about 20 chains below the fork. Found the first three miles very serpentine, varying from S. 30° E. to N. 60° E. the general course about N. 50° E. The next 3 miles continues very crooked also, say S. 50° E. to N. 70° E. general course about N. 60° E. The next two miles more straight, general course N. 45° E. The river continues 2 to 3 chains wide, the current moderate and quick, alternately: thence the river turns more South-easterly, say S. 60° E. for one mile and 10 chains (9 M. 25 C.) (n)
Colin Campbell,
British Surveyor,
West Branch of
Penobscot.

" For two and a half miles further, the general course is about S. 15° E.: current very moderate and water deep; the river about the same width as last noticed; here a stream navigable three miles for canoes, comes in from the North, extending up stream in a North direction.

" Littlefield, one of my party, (an American residing on Kennebec River), says he hunted upon it two seasons; that following its windings it is twelve miles, or about eight in a straight course, to a small pond, from whence there is a carrying place, the co. N. W. distance 20 chains, through a heath bog into a branch of the River St. John, with a Lake a mile and a half long at its head, surrounded by part of the same high land or main ridge that he traced with me last spring, and which we have a good view of from this station, extending N. E. and S. W. distant 8 to 9 miles."

" After dinner set out again down the Penobscot to the mouth of the River Umbazueus, which empties into Lake Chesuncook; thence up the Umbazueus, and carried the skiffs and canoes over the carrying place between this branch of the Penobscot and the Lake Pungum Gamook, which is the source of the River Aliquash. Arrived at the inlet of Aphmoogence Gamook Lake, on the evening of the 27th September. As a particular description of this route has been included in the general report, the courses, distances, &c. are not here mentioned."

" It was our object to find out as far as practicable the relative situation of the heads of the waters emptying into the river St. Lawrence on one side, and into the river St. John on the other, and with a view towards this point, to visit as many places where the waters of these rivers divide near one another, as we could obtain information of, through the few people who visit those countries." (o)
J. L. Tarks, Brit-
ish Surveyor, Green
River and
Tahudi Portage,--
Surveys, No. 15

" The branch of Green River which leads to the country that we had to explore, is a mile below the portage, and empties itself into the main stream on its right bank, in a South-easterly course. It is called by the hunters the Little or Second Fork of the

Appendix. Lakes, there being some miles lower down another large branch coming in, nearly in the same direction, both having some lakes on them. We arrived at the mouth of the branch 31st of July. The water in this river is not sufficient in that season of the

Extracts from the Report of the Surveyors under the 5th article of the Treaty of Ghent.

(a)
J. L. Tiarks, British Surveyor.—Green River and Tuladi Portages.—Survey, No. 1a.

year to carry a canoe, and we were therefore obliged to leave our canoes with some men at the mouth of the river, and set out again with a small party and the necessary stock of provisions. For the convenience of travelling, we kept on the rising ground as near the river as we could, in order to mark its course, and as we were led to expect, soon reached a small lake. A little above this lake, and at an equal distance from another lake on the same river, we found, as we expected, a considerable brook, which we followed to its source. We found this to be in a swamp covered with Spruce and Larch trees, and plants usually growing in marshy places. Twenty rods further North the water runs north, forming a small brook, which at the distance of about thirty rods from its source, discharges itself in a northerly course into a lake, which is about 60 rods broad and three quarters of a mile long. The whole lake is surrounded by the swamp, and on the banks it was in that dry season of the year hardly possible to walk, without sinking into the marsh. Otters, beavers, and muskrats seemed once to have inhabited this place in great abundance. The course of the river by which the lake discharges itself on the northern side, is at first nearly due north, and afterwards $1\frac{1}{2}$ point east (by compass variation about 16° W.) High unbroken ridges enclose on both sides the swamp, from which the water thus runs in opposite directions, the ridges forming a long, deep, and narrow valley, in the directions of both rivers, viz: nearly North and South by compass. We were informed that the river running northward is a branch of Ramousky River, falling into the river St. Lawrence, but we did not follow it far enough down to satisfy ourselves, by our own inspection, of the truth of this information. We returned to our canoes on the 5th of August, and descended with all possible despatch Green River, for Madawasky, where we arrived on the evening of the 7th.

The next place where, according to our information, rivers running in opposite directions, towards the St. John and St. Lawrence, head closely together, is on Tuladi River which discharges itself into Tinniscouta Lake, and an expedition to that river was therefore determined upon. We left the Madawasky settlement on the 12th of August; arrived at the mouth of Tuladi River on the 14th, and ascended that river on the 15th; about 16 miles up the river we came to the first forks; the one on the right, which passes through Squattuck Lake, seems to be the more considerable; guided by a small plan, traced by an Indian, we followed the one on the left, which brought us, within less than a mile, to other forks, where the one on the right is again the more considerable. We ascended the smaller one, a narrow little stream with very little current, and an exceedingly crooked course, and came to a considerable lake, at the end of which there is a stream, forming one of its principal inlets, which is very narrow, and so blocked up with floodwood, that the Indians, who seem to have travelled this route, frequently have made a portage across the country. We reached this portage, on the afternoon of the 18th, left our canoes at the entrance of it, and set out immediately, accompanied by two men to carry our packs. Impeded by rainy weather, we did not reach a small lake, about $4\frac{1}{2}$ miles distant, until the evening of the 20th. On the 21st we followed it up to its inlet, which is a broad shallow stream with very little current, surrounded on both sides by a swamp. Here we found again a portage path, which we followed. It goes through a swamp, covered in some parts with deep grass, and in others with thin wood, consisting of the Spruce, Larch and Birch trees, intersected by various small rills of water, which unite and discharge themselves into the lake, and surrounded on both sides by high, unbroken ridges, leaving between them a valley nearly half a mile broad. Having crossed several of the small rills running Southerly into the lake, we struck, in the same swamp, water running to the northward, which by measurement we found only a little more than twenty rods north of the other water

running south, both issuing from the same swamp. As we only crossed the waters, their heads may still be nearer to one another. We now struck on our course several smaller streams, running north, and at the distance of one mile and a half, the portage path lead us to a stream about half a rod wide, into which they discharge themselves. The course of the stream is North-east, and according to the Indian's plan it runs through a lake, the place of which we saw distinctly, but our provisions being exhausted, we had no time to go to it, which besides was not necessary, as a view of it would have afforded little proof of this river being water discharging itself into the St. Lawrence, the only important point in question. We understood this stream likewise to be a branch of Ramousky River, and if it be so, here we had also discovered a point where near waters run in opposite directions, on one side into the St. John, and on the other, most likely, into the St. Lawrence. We were struck with the great resemblance of the general features of the two places of this description which we had seen; in both cases the waters running in opposite directions issued from a swamp, bearing nearly the same plants and timber. The ridges in both cases run regular and unbroken, parallel to both waters, dividing in the valley between them, and so far from there being in those places a ridge, separating the waters running in opposite directions, we find insulated points, without the least chain of connection with other similarly situated places, in the depth of narrow valleys where such divisions take place."

Appendix.
No. 56.

Excerpts from the
Reports of the Sur-
veyors under the
5th article of the
Treaty of Ghent

(1)
J. L. Tinker, Bri-
tish Surveyor —
Green River and
Tuladi Portages
Surveys, No. 15.

"On the following day proceeded to the Lake called by the Surveyors Lake Metis; followed the ridge on the Northerly side of Beaver Stream. From the peak, about five miles west of the exploring line, saw the ridges south of Beaver Stream; they appeared very regular in the direction of that stream. Some higher ridges presented themselves beyond.

(1)
H. Burdham, U. S.
Surveyor. Metgar-
mette Portage.
Surveys, Nos. 1
and 25.

"To the North the land appeared high and broken. In a North-easterly direction, about ten miles distant saw a high ridge, extending in a northerly and southerly direction, which I suppose to be near the stream called by Mr. Johnson Metapediae. Also saw from this station the Lake. Proceeded past this Lake, and found near it two smaller ones; ascended a high swell, near the second small Lake, from which saw the ridges on the Memkeeswe, and some high mountains in a south-west direction, about fifteen miles distant, which I supposed to be situated near the source of the Grand Fourche of the Memkeeswe. The highest land observable from this station is south of Beaver Stream, and the lowest in a north-westerly direction."

"After settling with and discharging the Indians, proceeded to Quebec, where I arrived on the 17th December, and immediately commenced making preparations for the route up the Chaudiere; left Quebec, and reached the forks of the Chaudiere on the 24th December. At this place we employed two Indians as guides, and learned from them that the main head of the Du Loup was a long distance from the St. John, but that a branch of the Du Loup, called Metgarmette, headed near water of the St. John. Therefore concluded to trace that stream to its source; proceeded up the Du Loup, twelve miles, to the mouth of Metgarmette; thence up that stream three miles; thence took a line marked by the Indians, which led us directly to the source, by a shorter route, distance on line nine miles; course North 80° East—near this source, on the southerly side of the line, lies a high mountain, which the Indians informed me commanded a view of the surrounding country to a great distance. We ascended it on the 2d, 3d, and 4th days of January, but at no time could have a view of the surrounding country, owing to the state of the atmosphere; while it was pleasant at the foot, it would be found snowing on the summit of the mountain. Therefore was obliged to relinquish the idea of getting any views. About one-fourth of a mile from the source of the Metgarmette, found the source of Penobscot water. Two streams pass each other, and at one place are only six rods apart. Found the

Appendix. source of St. John water, about half a mile east of those sources, and another source of the Penobscot, a few rods distant. All those sources have their rise in the same swamp. Though the timber is a little varied, that at the sources of Penobscot, and Metgarnette, is Spruce, Larch, and Cedar. That at the sources of Penobscot, and St. John, is Spruce, Fir, Birch, and small Alders. The timber at those two last mentioned sources is all by which the land is discovered to be any higher than at the two first, as the eye perceives no difference. Ridges pass directly by on either side, as will be seen by the Map accompanying this report. From those sources followed the St. John's water, on a course N. 70° E. three-fourths of a mile, when came to a small lake, thirty chains in length, fifteen chains in width, bearing from inlet to outlet N. 40° E. left this lake on a course N. 30 W. which followed one mile and quarter, when we struck La Famine water near its source. A source of the St. Johns is found a few rods from it, both in a swamp; timber, Spruce, and Larch; thence north three-fourths of a mile; thence N. 45° W. three-fourths of a mile, to outlet of second lake of the St. John, laying east and west three-fourths of a mile long, one fourth broad. West from the head of this lake, at the distance of half a mile, struck the head of La Famine Lake; small streams empty in at the head of each, which have their rise near each other. This lake lays N. and S. is one mile long and one-fourth broad. Thence traced the La Famine to the Chaudiere. It has its junction with that river three miles below the mouth of Du Loup."

Extracts from the Reports of the Surveyors under the 5th article of the Treaty of Ghent.

(1)
H. Burnham, U. S. Surveyor, Metgarnette Portage.—
Surveys, Nos. 13 and 25.

Thomas Catlin, British Surveyor, Ouelle and Metgarnette Portages.—
Surveys, Nos. 24 and 26.

"About one mile from the head or south end of this upper lake, we found the source of the greatest inlet or the Ouelle River; that of the little St. John is about ten chains from it in a south-west direction, and one-fourth of a mile to the eastward is the source of another branch of Little St. John. All these streams come from a swamp of some extent; a small rocky swell in the swamp divides the sources of the last mentioned branch and the Ouelle, but there is no perceptible rise between the others. On the East this swamp is bounded by a ridge of moderate height, which begins below the lower lake on the east side, and continues southerly along the upper lake, passes the sources of both the Ouelle and Little St. John rivers, and extends along the latter. On the west side of the swamp there is a swell, which commences at the head of the upper lake, and continues to the branch of the Little St. John first struck; another swell divides the two branches, which passing round it on each side, unite about one mile from the sources. There is a portage four miles long, which begins at the head of the upper lake, keeps along the rising ground on the west side of the swamp, intersects both the branches of the little St. John already mentioned, and ends about five miles above where this river joins Black River. A ridge running towards the south divides these streams, then retaining the name of Black River below the forks for twenty miles, it joins the river St. John."

"At three miles along this line struck off to the south and ascended a high mountain, that we might have a view of the country, but were disappointed, owing to the haziness of the horizon; about four miles further, the line passes along the brow of a mountain, on the same ridge as the mountain already mentioned, but the same reason prevented us seeing further than the ridge on the opposite side of the river, to the northward. The head of the Metgarnette is about nine miles from its junction with the de Loup; it commences in swamp at the foot of the ridge on the south side; here also is the source of one of the branches of the Penobscot river, in the same swamp, and within eight rods of the other water, running nearly parallel, but in a contrary direction; namely, east for several rods, then inclines a little towards the south, and at two miles there is a small lake one mile long. The ridge on the south side of the Metgarnette continues along past the sources and down the Penobscot. One-half mile east from these two sources there is

a division of the waters of the St. John and Penobscot rivers in some marshy grounds; the stream of the latter joins the one already mentioned, a few chains from the source; that of the St. John, after running N. 70° E. one-half mile, forms a lake one mile long and one-half broad; there is a ridge of moderate height between this lake and that of the Penobscot, which, gradually diminishing both in height and breadth, forms but a small rise near the sources.

"The ridge on the north side of the Metgermette approaches to that of the opposite side, until near the source, then rounds off towards the north, to where a division of St. John and La Famine rivers takes place, also in low land; North from this is another lake of St. John water, the outlet of which joins with that of the other lake, some little distance to the eastward. The inlet of this last lake is a small stream of about one-fourth mile long, coming from the west, and as we were informed by the Indians, heads in a swamp, from which also water flows in the opposite direction to the head of a lake on the La Famine River. This lake is more than one mile long, bearing North and South, the outlet then gradually turning to the west, keeps nearly that course until it enters the Chaudiere, three miles below the river Du Loup. On the map I have again another branch of the La Famine River, which by the Indians' account heads near that of some of the St. John branches, but at a greater distance east of the Chaudiere than the sources we visited."

"Accompanied by Mr. Charles Loss, His Majesty's Assistant Surveyor, on my arrival at the mouth of the Aliguash, I proceeded to execute my instructions relative to the exploration of the river St. John, from that point upwards to its sources, and the country adjacent thereto."

"The Highlands in the vicinity of the sources of the West and North-west branches are represented as they appeared when viewed from different situations; some of the peaks composing the range were of considerable magnitude, and visible twenty or twenty-five miles, a circumstance less to be attributed to the elevation of the points from which they were surveyed, than to the extreme evenness of the interjaacent country. What appeared like insulated peaks at the distances abovementioned, on a close examination were found to be summits of very extensive ridges. These ridges extended in a northerly direction, how far I am unable to say, until intervening objects shut them from my view undiminished. They also extended southerly, and there was an evident diminution in their magnitude, but the termination of them was not visible from the sources of the West branch, near which they were last viewed."

"Of the principal source, of the south branch I can assert nothing, on the authority of my own observations, not having explored it: I have represented it, however, on the map, upon the authority of information derived from different sources relative thereto, the correctness and credibility of which there is no reason to dispute. My personal explorations on the south branch toward its principal source went no farther than the entrance of the first tributary stream after passing through the body of water on this branch called Baker Pond. The ascension of this stream was necessary in order to gain the head of Penobscot river, to which a portage leads, as will be observed by the Map, and also the extent and course of said stream.

"The portage alluded to above, is two miles in length, and is the customary route of the Indians, in passing to and from the waters between which it communicates. The waters, however, of the respective rivers, make a much nearer approach above or north of the Portage than at its commencement and termination; but at these two points the possibility of canoe navigation ceases. The branch of the St. John from which the portage leads, pursues a very winding and sluggish course, through an open morass or bog, nearly to its entrance into the principal source of the south branch, just above Baker

Appendix.
No. 56.

Extracts from the
Reports of the Sur-
veyors under the
5th article of the
Treaty of Ghent

(s)
Thomas Carlin,
British Surveyor
Ouellet and Metgar-
mette Portages.
Surveys Nos. 24
and 26.

(s)
W. G. Hunter, I
S. Surveyor, West
Branch & Portage
of South Branch of
St. John. Surveys
No. 39.

Appendix.
No. 36.

Extracts from the
Reports of the Sur-
veyors under the
5th article of the
Treaty of Ghent.

(A)
W. G. Hunter, U.S.
Surveyor, West
Branch & Portage
of South Branch
of St. John. Sur-
veys No. 19.

Pond. The land at the commencement of the portage is extremely low and swampy, hardly above the surface of the adjacent stream. The face of the earth in this vicinity, and that across which the portage leads, is covered with a very thick soft coat of moss, which, on being pressed by the foot, immediately admits it into the water which every where lies concealed beneath. The trees are of a very inferior growth and thinly scattered over the face of the land, great portions of which are quite bare. The land, in advancing towards the Penobscot on the portage, is of the above description for the distance of one mile and seventeen chains: at the termination of this distance a slight alteration is perceptible in the trees and soil. The former are a little more numerous and luxuriant, the latter is more firm and dry. This alteration, ascribable to a slight elevation, the surface of the land which can be discovered only in traversing it, for nothing discovering even the appellation of a hillock is perceptible when the land is viewed at a short distance; and in fact the alteration already described in the wood and soil, conduces more to the discovery of the elevation: even in crossing the portage, than the magnitude of the elevation itself. The land continues dry and firm about thirty-seven chains, and then resumes the marshy aspect it wore at the commencement of the portage as heretofore described, and holds the same to its termination at the small lake, or morass rather, represented as the principal source of the Penobscot: for a more particular description of which I must beg leave to refer you to my report of observations, made in that country last season. The only Highlands observable in this region are those represented on the map, and these are not remarkable either for elevation or extent."

(B)
C. Loss, British
Surveyor, West
Branch & Portage
of South Branch
of St. John. Surveys
No. 24.

"Dr. Tiarks then directed me to act on the part of His Britannic Majesty, in conformity to the order of the Board, in the exploring survey of the sources of the St. John, with Mr. Hunter, who had been appointed Surveyor on the part of the United States."

"The next stream which we fixed upon ascending, was the one we had passed from the north on the 18th; arrived at the fork on the evening of the 27th. The next day commenced ascending; having ascended about five miles, ridges of Highlands were visible from a tree in a north-westerly direction; there were also ridges perceptible in an easterly direction, which are probably situated at the heads of some of the tributary streams of the St. John. Having ascended about two miles further, the stream divided, each branch being about two chains in width; continued to ascend the one coming from the left, which appeared to contain the most water; on the 30th having ascended the stream 25 miles from its junction with the one we at first ascended, it again divided, each branch being about a chain in width; we here again followed the one coming from the left a short distance and encamped, sending on two men to see where this stream terminated; at our place of encampment from top of a tall tree many highlands were observable in a northerly direction. On the following day the men returned, reporting that they had traced the stream to its spring, which was near a considerable mountain."

"On the following day crossed the lake to its inlet, the course along the southern shore being South 33° East, its length three miles and twenty chains, and one mile and sixty chains in width. The country is very level in the vicinity of the lake. No highlands were observed near it, though some were visible at a great distance, in a South-easterly direction, which are probably situated at the head of Black River, a branch of Penobscot; and also some in a southerly direction, very likely situated on the other side of Penobscot River. The lake has two small streams entering it from the north, near the outlet; the shores are low and rocky without any hard wood timber. We had not proceeded far up the inlet before it divided; we followed the stream coming

from the right, which leads to the head of Penobscot River. This stream is very shoal and narrow; at the distance of four miles from the lake we entered a swamp, in passing through which a small ridge was perceptible on the left, which we agreed upon is situated between this stream and the one we had passed soon after leaving the lake. The country in every direction, soon after leaving the swamp, is extremely low, and in many places marshy. The stream, which has a very crooked course, became so shoal at last, that the men were for the greater part of the time obliged to haul the canoes over dry ground. The courses of the small stream, after leaving the swamp, are south forty-five degrees west, three-fourths of a mile, due west one mile, and north forty-five degrees west, three-fourths of a mile, making together a distance of two and a half miles from the swamp to the portage leading from the head of the St. John to the head of Penobscot River. The stream runs through a low marshy country, and is so much overgrown with Alder bushes as to make its navigation very difficult, even in the time of a freshet. The growth at a distance on the sides of the stream is principally Tamarac and Spruce. Having arrived at the portage, we crossed it, finding its course S. 85° W. and distance across, two miles, by the chain. We found the portage for the first mile and seventeen chains, very little above the surface of the stream, covered with a thick coat of moss, the growth Tamarac and Spruce, very inferior in size; at the end of this ground the earth has a very small elevation, hardly perceptible, and may only be known by the ground being more firm and destitute of the coat of moss; the growth is Spruce; a few scattered Birches also are seen; this continues for the distance of thirty-seven chains, when it resumes its former appearance of low swampy ground, thinly covered with Tamaracs, which continues to the pond at the head of Penobscot river."

Appendix.
No. 55.

Extracts from the
Reports of the Sur-
veyors under the
5th article of the
Treaty of Ghent.

By
C. Lums, British
Surveyor, West
Branch & Portage
of South Branch of
St. John. Survey
No. 20.

"On the 4th of August we arrived at Abalajakomegus, a small stream rising near Mount Katahdin. Mr. Odell wished to ascend that mountain. I accompanied him, and viewed the country for an immense extent around. I have calculated its height from a series of barometrical observations, which I owe to the politeness of Mr. Odell. Its height is stated in the report, in order that no doubt may arise with respect to the extent of country seen from its summit.

(5)
N. H. Long U. S.
Surveyor, Mount
Katahdin and Um-
basuckus Portage.
S. 655 Nos. 16
and 17.

| | |
|--|-------|
| Height in feet above Abalajakomegus Stream, - - - - - | 468 5 |
| Height of Abalajakomegus above Passadumkeag river, - - - - - | 500 |
| Supposed height of Passadumkeag above tide water, - - - - - | 150 |

| | |
|------------------------------------|-------|
| Height above tide water, - - - - - | 533 5 |
|------------------------------------|-------|

"On the 9th of August we proceeded from Abalajakomegus Stream to the foot of Katahdin, over rising ground, some parts of which overlooked the surrounding country for many miles. The distance passed over was about seven miles.

"On the 11th we ascended Katahdin. The weather was rather hazy. The haze probably had an effect on the appearance of the mountains, lakes, etc. The character of the country, however, could be determined with accuracy. I could see the Umbazuckseus and Mud Lakes. The former connected with the Chesuncook, and the latter with the Aphmoogeene Lake. The ground around the Aphmogene Lake was generally low. In that section of the country I could see no mountains, neither were there any hills of uncommon heights, nor any elevated ground which might be termed a ridge or Spur of Highland. In the direction of Mars Hill were several mountains and clumps of mountains, some rising singly to a considerable height, and at different distances from each other. Then again a ridge of rising land frequently appeared, with occasionally a considerable elevation; and such swells or ridges appeared to run N. and S. N. W. and between N. and W. at different degrees. The country appeared to be intersected with almost innumerable ramifications of the principal rivers, separating the mountains in every quarter; such indeed was the face of the country junction of Indian Stream with Connecticut River, the latter is very wide; we measured

Appendix. within eye sight, included between N. 15° E. and S. E. Immediately below Kathadin to the S. S. W. and W. S. W. there were no mountains but many lakes. Mountains cluster around Katahdin on the other sides, mostly N. W. The Katahdin clump is not connected with any ridge of mountains.”

Extracts from the Reports of the Surveyors under the 5th article of the Treaty of Ghent.

(y) T. Carlin, H.B.M. Surveyor. High lands acknowledged by both Parties. Sources of Connecticut River. Surveys No. 22. “At four and one-half miles changed our course to S. 75° W. which at seven miles brought us to the main Margalloway; at this place about four rods wide, shallow water and easy current flowing South; at the end of about twenty miles took N. 80° W. course to avoid a swamp, on the left, and at five miles came to the middle lake of Connecticut River, and near the mouth of the eastern inlet. From the head of Arnold River along the line, our estimated distance is twenty-nine miles. The country mountainous, with swells of hard wood land; no regular ridge can be traced to any distance except along the rivers running north and south.”

“Having, after a few days rest at Stewartstown, procured a fresh supply of provisions, we went to examine the most considerable streams emptying into Connecticut River, on its western bank north of latitude 45°, namely, Indian and Hall’s Streams. Mr. Partridge and myself having agreed to take the minutes of a survey taken by Col. Eames, of Indian Stream, we made the best of our way to the source of the west branch, and from it spotted a line due west by compass, about two and a half miles long, which brought us to within a few rods below the source of Hall’s Stream, from whence we returned to the settlements. Indian and Hall’s Streams are much alike, as to size and general courses; ridges of land divide them, as also their respective branches, then continuing northerly past the sources and along the branches of the St. Francis in the same manner; the sources of the St. Francis are generally to be found a few rods from those of the principal branches of Indian and Hall’s Streams, in the same swampy ground, without any perceptible rise between them; then falling off with easy current in opposite directions. The main branch of Indian Stream is the most northerly by nearly two miles, if the information I have received be correct.”

(r) J. L. Tharks, British Surveyor. Sources of Connecticut River. Survey No. 12.

“We passed the mouth of Hall’s Stream on the 12th, and found the breadth of the stream at that place 70 feet. It is said to swell rapidly after a rain, and likewise to subside in a short time. The name of this river is derived from a hunter of the name of Enoch Hall, and it has been generally known at least ever since 1780 by this name. A gentleman has lately informed me that he heard the name in 1772.

“Two miles and fifteen chains from the mouth of Hall’s Stream, we reached the old boundary line, marked by a post close to the river with the following inscriptions; on the northern side, “H. Carden, J. Collins, Quebec,” on the eastern one, “Oct. 1, 1772,” and on the southern side, “New York,” is all that remains legible. The next day we struck the mouth of Indian Stream. The breadth of this river we found, by the mean of two measurements, in different places near the mouth, 66 feet. It is, however, deeper than Hall’s Stream; and its current being likewise stronger, it discharges more water than the latter stream. The river into which Indian Stream discharges itself comes from the eastward, and is commonly called Connecticut River, or sometimes the main Connecticut River, to distinguish it from the other smaller streams that successively unite with the larger stream, and have all particular well-known names. Here, Sir, I beg distinctly to state, in answer to the question which you particularly desired me to inquire into, viz: whether this river is designated by the inhabitants by the name of Eastern Branch of Connecticut River, that I have been assured by all persons that I had an opportunity of consulting, that this is not the case; and that that river is never distinguished by any name but those stated above. I refer particularly to Jeremiah Eames, Esq. of Stewart’s Town, Capt. Eames, of Northumberland, and Mr. John Hughes, of Colebrook, who have known that river and hunted on it more than thirty years ago, and always lived in the vicinity. At the

its breadth, therefore, higher up, where we conceived it to have nearly its average breadth, and found it, by the mean of two measurements in different places, rather more than 100 feet. We then measured, in the same places where we had measured the breadth of the two rivers, the velocity of the current in them, by observing the time in which a piece of wood would float down the length of two chains. Taking the mean of several results, we found that the current of Indian Stream ran at the rate of about $1\frac{1}{2}$ and that of Connecticut River at the rate of almost $2\frac{1}{2}$ miles in an hour. Not being able to obtain a good canoe, we could not measure the depth, but were convinced that Connecticut River is at least as deep as Indian Stream. It follows from this that Connecticut River has more than double the quantity of water that Indian Stream has, and is fully entitled to be called, which indeed is allowed on all hands, the Main Stream of Connecticut River."

Appendix.
No. 36.

Extract from the
Report of the
Astronomical
Observations
of the
United States
Army.

J. L. Tucker, Br.
tish Surveyor.
Sources of Conne-
cticut River, &c.
Vol. No. 12.

"Having followed the river about five miles from the lake, we struck another small lake, a little more than a mile in its greatest dimension, from which the main branch discharges itself in a southerly direction. This lake is formed by the confluence of small brooks running in various directions, and is therefore the beginning of a river which successively uniting with considerably smaller waters forms *Connecticut River*. A severe snow storm now interrupted again the progress of our work for several days, and when we were at last able to proceed to an examination of the surrounding country, the snow was so deep, especially on the mountains, that we had the greatest difficulty in getting along. The north-western and northern brooks falling into the lake were then properly surveyed, and we ascended the highlands from which they flow, which, being elevated over the surrounding country, would have afforded a perfect view of the whole country, had it not been for the trees being so thickly covered with snow that only in a few places a distant view could be obtained. Towards the north-west we found the land to descend; we could distinctly observe some distant settlements in Canada, but were not able to proceed far in this direction. On the eastern side Mr. Carlile followed a brook running to the north-east, which he followed for some distance. Towards the west, it struck a brook running nearly west, but was then prevented from determining which water it belongs to, although it was evident, from the smallness of the various brooks which we struck immediately descending from the heights and falling off of the land towards the north-west, that I was on the highlands dividing the waters of the south from those of the north, still I lamented exceedingly that the depth of snow, which threatened to increase every day, and the reduced state of our provisions, obliged us to leave this place without being certain of having seen any water falling into the St. Lawrence. We returned to the head of the North-western Brook running into the Lake, which is the north-westernmost head of the river which we had traced up, and marked that spot by blazing a number of trees around it, with a view of forming a more correct idea of the relative situation of Indian Stream and the sources of the main Connecticut. We now proceeded on our way home on a West course by compass from the north-westernmost head above mentioned. In following this course, we found that the brook running westward, which I had struck before, is water belonging either to Perry's or Indian Stream. We likewise struck the rapid branch of Indian Stream near its source, and at last Indian Stream, a little above the upper forks. From this place we proceeded by the nearest route to the Canada Road, and returned to Stewartstown on the 14th November."

"One of the men who accompanied me has since visited the highlands on Connecticut River, and carefully traced the waters in that vicinity. He has informed me that the Brook running eastward, which Mr. Carlile followed, is

Appendix. water of Margalloway River, and that the Western Brook belongs to Perry's Stream.

No. 56. Towards the north-west he found a brook, which is said to be the source of the stream

on which Mr. Sawyer, of Eaton, has erected a mill, and which goes by the name of
 Reports of the Sur-
 veyors under the
 5th article of the
 Treaty of Ghent. Sawyer's Stream; it is a branch of the St. Francis River, falling into the St. Lawrence.
 From a plan given me by this person, this brook is laid down on the map accompany-

ing this report."

(r)
 J. L. Parks, Bri-
 tish Surveyor.—
 Sources of the Con-
 necticut River.—
 Survey, No. 20.

APPENDIX, No. LVII.

LETTER

FROM

ALBERT GALLATIN, ESQ.

TO

THE SECRETARY OF STATE OF THE UNITED STATES.

GHENT, 25th December, 1814.

Appendix.
No. 57.

SIR: The Treaty which we signed yesterday with the British Ministers is, in my opinion, as favorable as could be expected under existing circumstances, so far as they were known to us. The attitude taken by the State of Massachusetts, and the appearances in some of the neighboring States, had a most unfavorable effect. Of the probable result of the Congress at Vienna we had no correct information. The views of all the European Powers were precisely known from day to day to the British Ministry. From neither of them did we in any shape receive any intimation of their intentions, of the general prospect of Europe, or of the interest they took in our contest with Great Britain. I have some reason to believe that all of them were desirous that it might continue. They did not intend to assist us; they appeared indifferent about our difficulties; but they rejoiced at any thing which might occupy and eventually weaken our enemy. The manner in which the campaign has terminated, the evidence afforded by its events of our ability to resist alone the now very formidable military power of England, and our having been able, without any foreign assistance, and after she had made such an effort, to obtain peace on equal terms, will raise our character and consequence in Europe. This, joined with the Naval victories, and the belief that we alone can fight the English on their element, will make us to be courted as much as we have been neglected by foreign Governments. As to the *people* of Europe, public opinion was already most decidedly in our favor. I anticipate a settlement with Spain on our own terms, and the immediate chastisement of the Algerines. Permit me to suggest the propriety of dispatching a squadron for that purpose, without losing a single moment.

Letter from Mr. Gallatin, 25th Dec. 1814.

I have little to add to our public dispatch on the subject of the terms of the Treaty. I really think that there is nothing but nominal in the Indian article as adopted. With respect to precedents, you will find two, though neither is altogether in point, viz: the ——— article of the Treaty of Utrecht, and the latter part of the ——— article of our Treaty with Spain. You know that there was no alternative between breaking off the negotiations and accepting the article; and that we accepted it only as provisional, and subject to your approbation or rejection.

The exception of Moose Island from the general restoration of territory, is the only point on which it is possible that we might have obtained an alteration, if we had adhered to our opposition to it. The British Government had long fluctuated on the question of peace: a favorable account from Vienna, the report of some success in the Gulf of Mexico, or any other incident, might produce a change in their disposition;

Appendix, they had already, after the question had been referred to them, declared that they could not consent to a relinquishment of that point. We thought it too hazardous to risk the peace on the question of the temporary possession of that small island, since the question of title was fully reserved, and it was therefore no cession of territory.

Letter from Mr.
Gallatin, 25th Dec.
1811

On the subject of the Fisheries within the jurisdiction of Great Britain, we have certainly done all that could be done. If, according to the construction of the Treaty of 1783, which we assumed, the right was not abrogated by the war, it remains entire, since we most explicitly refused to renounce it either directly or indirectly. In that case it is only an unsettled subject of difference between the two countries. If the right must be considered as abrogated by the war, we cannot regain it without an equivalent. We had none to give, but the recognition of their right to navigate the Mississippi, and we offered it. On this last supposition, this right is also lost to them, and in a general point of view, we have certainly lost nothing. But we have done all that was practicable in support of the right to those Fisheries: 1st, by the ground we assumed respecting the construction of the Treaty of 1783—2dly, by the offer to recognise the British right to the navigation of the Mississippi—3dly, by refusing to accept from Great Britain, both her implied renunciation to the right of that navigation, and the convenient boundary of 19° for the whole extent of our and her territories west of the Lake of the Woods, rather than to make an implied renunciation on our part to the right of America to those particular Fisheries.

I believe that Great Britain is very desirous of obtaining the Northern part of Maine, say from about 47° North latitude to the northern extremity of that District, as claimed by us. They hope that the river which empties into Bay des Chaleurs, in the Gulf of St. Lawrence, has its source so far west as to intervene between the head waters of the River St. John and those of the streams emptying into the river St. Lawrence: so that the line North from the source of the river St. Croix, will first strike the heights of land which divide the waters emptying into the Atlantic Ocean, (River St. John's,) from those emptying into the Gulf of St. Lawrence, (River des Chaleurs,) and afterwards the heights of land which divide the waters emptying into the Gulf of St. Lawrence, (River des Chaleurs) from those emptying into the River St. Lawrence; but that the said line never can, in the words of the Treaty strike any spot of land actually dividing the waters emptying into the Atlantic Ocean from those which fall into the river St. Lawrence. Such will be the foundation of their disputing our claim to the Northern part of that territory, but feeling that it is not very solid, I am apt to think that they will be disposed to offer the whole of Passamaquoddy Bay, and the disputed Fisheries, as an equivalent for the portion of Northern territory which they want in order to connect New Brunswick and Quebec. This may account for their tenacity with respect to the temporary possession of Moose Island, and for their refusing to accept the recognition of their right to the navigation of the Mississippi, provided they recognised ours to the Fisheries.

That Northern territory is of no importance to us, and belongs to the United States, and not to Massachusetts, which has not the shadow of a claim to any land north of 45° to the eastward of the Penobscot River, as you may easily convince yourself of by recurring to her charters.

I have the honor to be, with respect,

Sir, your obedient servant,

[Signed] ALBERT GALLATIN

The Honorable THE SECRETARY OF STATE,

Of the United States, Washington.

APPENDIX, No. LVIII.

EXTRACTS

FROM

THE BRITISH EVIDENCE.

FIEF OF MADAWASKA.

Concession of the Fief of Madawaska to the children of the Sieur de la Chenaye, 25th, November, 1683; and Concession to the said Sieur de la Chenaye, and to the Sieur de Villeray of Land lying between their former Concessions.—5th April, 1689.

Les Sieurs Lefebvre de la Barre, Seigneur dud. lieu, Coner. du Roy en ses Consls, Gouverneur et son Lieutenant Général en toutes les terres de la Nouvelle France et Acadie; et Demeulles, Seigneur de la Source, Chever. Coner. du Roy en ses Consls. Intendant de la Justice, Police, et Finances aud. pays: Nous suivant le pouvoir à nous conjointement donné par Sa Maté. avons auxd. Antoine Aubert et Margeurite Angelique de la Chenaye donné, accordé et concedé, donnons, accordons et concedons par ces presentes *lesds. trois lieues de terre le long de chacun des deux bords de la Rivière Madoueska proche la Rivière St. Jean, avec le lac apellé Cecemiscouta et deux lieues de profondeur cy dessus spécifiées*, le tout en titre de Fief et Seigneurie, haute, moyenne et basse justice avec le droit de chasse et de pesche dans l'estendue desd. lieux pour en jouir par lesd. Antoine Aubert et Margeurite Angelique de la Chenaye, à l'avenir leurs hoirs, successeurs et ayans cause à la charge de la foy et hommage qu'eux leurd. hoirs et ayans cause seront tenus de porter au Chateau de St. Louis de Quebec, duquel ils releveront aux droits et redevances accoutumées. Donné à Quebec, ce vingt cinq. jour de Novembre, *ghje. quatre vingt trois*. Signé, Lefebvre de la Barre, Demeulle, et plus bas, par Mesd. Seigneurs, Regnault.

Appendix.
No. 58.
Extracts from British Evidence, Fief of Madawaska.
Original Concession to the children of M. de la Chenaye. British Evidence, No. 13.

Dud. jour quinziesme Fevrier, ghje. vingt trois. En procedant à la confection du d. terrier est comparu en notre hotel, JOSEPH BLONDEAU d. la franchise, propriétaire DES FIEFS DE LA RIVIERE DU LOUP ET DE MADOUESKA, appartenances et dépendances, lequel a avoué et déclaré tenir de Sa Maté. les d. Fiefs, sçavoir: et le d. Fief de Madoueska trois lieues de front de chaque costé de la Rivière du meme nom sur deux lieues de profondeur, ne pouvant dire l'estendue du d. Lac de Cecemiscouta avec les

Fiefs de la Rivière du Loup et de Madoueska. British Evidence, No. 14.

Appendix. islets et battures étans au devant des d. Fiefs et les droits de haute, moyenne, et basse justice, et ceux de chasse, de pesche et traitte, à la charge de la foy et hommage à rendre et porter au Roy, au Chateau St. Louis de Quebec.

No 53.
Extra is from British Evidence, Fief of Madawaska.

Paris de la Rivière du Loup et du Madoueska. French Evidence, No. 16.

Que sur le d. Fief de Madoueska il y a un domaine, sur le quel il n'y a plus de batiments ayant été brulés par les Sauvages, qu'il y a environ six arpens de terres desertées, mais qu'il n'y a point d'habitans établis.

DU MARDY, 29 Juillet, 1755.

L'Audience tenant par Messieurs le Lieutenant-General et Procureur du Roy.

Adjudication of said Fiefs to Pierre Clavier. British Evidence, No. 17.

Vu la sentence du congé d'adjudgée rendue en cette Prevôté le vingt-neuf Avril, entre le S. Jean La Barte négociant en cette ville, d'une part, et le S. Pierre Clavier, Garde de Magazins du Roy en cette d'ville, d'autre part, le de. Sr. Jean la Barte poursuivant criées, vente et adjudication par decret et autorité de justice des fiefs de la Rivière du Loup consistants, sçavoir:

et le Fief de Madoueska trois lieues de front de chaque coté de la Rivière du meme nom sur deux lieues de profondeur, ensemble toute l'estendue du Lac Cécémiskouta et toutes les isles, islets, battures étant au devant desd. fiefs avec droit de haute, moyenne et basse justice, droits de traitte, chasse et pêche dans l'estendue desd. fiefs.

Acte de Foi et Hommage de Pierre Clavier. British Evidence, No. 18

Est comparu Le Sieur Pierre Clavier, Garde des Magazins du Roy en cette Ville, Propriétaire DES FIEFS DE LA RIVIERE DU LOUP ET DU MADOUESKA, appartenances et dépendances.

ET LE FIEF DE MADOUESKA, sur la Rivière du même nom, situé proche la Rivière St. Jean, ensemble le Lac Cécémiskouta y joignant. Le dit fief de Madoueska contenant trois lieues de front de chaque costé de la ditte Rivière de même nom sur deux lieues de profondeur, ne pouvant dire l'estendue du dit Lac Cécémiskouta; avec les islets et battures étant au devant des dits fiefs et les droits de haute, moyenne et basse Justice, et ce de chasse, de pesche, et de traitte.

Et à l'Instant le dit Sieur comparant s'estant mis en devoir de vassal, Teste nûe, sans épée ny esperons, et un genouil en terre, auroit dit à haute et intelligible voix, qu'il rendoit et portoit entre nos mains la foy et hommage, qu'il est tenu rendre et porter au Roy au Chateau St. Louis de Quebec, à cause des dits Fiefs et Seigneuries de la Rivière du Loup et de Madoueska, circonstances et dependances: à la quelle foy et hommage nous l'avons reçu et recevons par ces presentes, à la charge de satisfaire aux droits dus au Roy.

Nous avons par ventilation à l'amiable, estimé le prix particulier du dit Fief de Madoueska et dependances de la somme de deux mille trois cent seize livres treize sols quatre deniers, faisant le quart du dit prix to-

ai de neuf mille deux cents soixante six livres treize sols quatre deniers. Et en consequence le dit Sieur Comparant payera au dit Domaine du Roy le droit du quint du dit Fief de Madoueska et dependances, à raison seulement du dit prix, particulier de deux mille trois cent. seize livres treize sols quatre deniers.

Appendix.
No. 58.
Extracts from British Evidence. Fief of Madawaska.

FURENT presents Monsieur Jean Antoine Nicholas Dandanne Danseville, Sieur de l'Évandard, Lieutenant d'Artillerie de Sa Majesté Très Chretienne, et Dame Marie Anne Dupéré, son épouse.

Deed of Sale of Danseville to Jas. Murray. British Evidence No. 59

Par ces présentes, vendu, cédé, quitté, transporté et delaisé dès maintenant et à toujours, avec promesse de garantir de tous troubles, dettes, hypothèques, et autres empêchements, généralement quelconques, à son Excellence Jacques Murray, Brigadier Colonel d'Infanterie, et Gouverneur de Quebec, à ce present et acceptant acquerreur pour lui, ses hoirs, et ayans cause, pour cy jouir à perpétuité, c'est à sçavoir, LA SEIGNEURIE DE LA RIVIERE DU LOUP et dependances, situé sur le Fleuve St. Laurent au sud, tenant du côté du Nord-Est, à Jean Bte. Coté ou à ses representants, propriétaires de l'Isle Verte, et du Coté du sud ouest à la Dame Veuve Soulange, propriétaire du fief de l'islet du Portage, LE FIEF DE MADOUESKA, sur la Rivière du même nom, scitué proche la Rivière Saint Jean, ensemble le Lac Cetemisouata y joignant, la dite Seigneurie et Fief contenant, sçavoir, la Rivière du Loup, sept lieues et demi ou environ de front sur diverses profondeurs, sçavoir, joignant le dit côté au nord-est, environ une lieue de frond sur deux de profondeur, au dessus deux lieues de front sur deux lieues de profondeur, au dessus demi lieue de front jusqu'à la Rivière du Loup sur une lieue et demi de profondeur, et encore au dessus trois lieues de front sur trois lieues de profondeur, et le dit FIEF DE MADOUESKA, contenant trois lieues de front de chaque côté de la Rivière du même nom sur deux lieues de profondeur, ne pouvant declarer possitivement l'étendue du Lac Cetemisouata, avec tous les Islets et Battures étant au devant des dits fiefs, et les droit de moyenne et basse justice, ceux de chasse, peche, et de traite dans l'étendue des dits fiefs, sans du tout rien excepter, reserver, ny retenir, et ainsi que le tout appartenoit au dit feu Sieur Claverie, suivant le contract de vent passé devant M^{re}. Panet et Barolet, le vingt un Octobre, mil sept cent cinquante quatre, et la sentence rendue sur decret, le neuf Juillet, mil sept cent cinquante cinq.

Fait et passé à Quebec, au Gouvernement, le vingt Juillet, mil sept cent soixante et trois, avant midi, et ont signé, lecture faite.

DANDASNE DANSEVILLE.
DUPERE DANSEVILLE,
JQUE. PERRAULT,
VEUVE DUPERE,
JA. MURRAY,
PANET,
SANGUINET.

Province du Bas Canada, District de Quebec.

DANS LE BANC DU ROI.

Pour copie conforme à la minute demeurée dans l'étude de feu Panet, Notaire, déposée dans les Archives de ce District, vidimée et collationée par nous Soussignés, Gardiens d'icelle, et Protonotaires de la Cour du Banc du Roi.

À Quebec, le 31 Octobre, 1828.

[L. s.]

PERRAULT & BURROUGHS,
P. B. R

Appendix.
No. 58.

Extracts from the
Indenture of Lease
of Madawaska.

Doth assign
to the said R. Mur-
ray, his heirs, assigns,
and assigns, the said
Indenture of Lease
of Madawaska.

To all to whom these presents shall come, *Richard Murray*, of the city and Province of Quebec, Esquire, sendeth greeting: Whereas His Excellency the Honorable *James Murray, Esquire*, Governor of the Province of Quebec, by his Indenture of Lease, under his hand and seal, bearing date the 10th day of May, in the year of our Lord, one thousand seven hundred and sixty-six, made between the said *James Murray* of the one part, and the said *Richard Murray and Malcolm Fraser, Esquires*, of the other part, for the considerations therein mentioned, did lease, set, and to farm let, unto the said *Richard Murray and Malcolm Fraser*, all that Seigniorie or Manor of Murray's Manor, formerly called the *Seigniorie of the River du Loup*, with its appurtenances, situate on the South side of the River St. Lawrence in the Province aforesaid. And also all that fief of *Madawaska on Madawaska River*, in the said Province, situate in the rear or back part of the said Seigniorie or Manor, with its appurtenances; and also all that tract, piece or parcel of land, containing six thousand acres, in the Province aforesaid, called the *Pinorie*, on the South side of the River St. Lawrence, situate on the East side of the River du Loup, adjoining on the Seigniorie of the same, and thereon depending: and also all that tract, piece or parcel of land likewise depending on the said Seigniorie or Manor, containing eighty-four acres, in the Province aforesaid; known by the name of *Red Island*, situate on the River St. Lawrence; and also four parts, the whole in five parts, to be divided of and in all quit rents by virtue of the said lease, to be reserved in any further grants or concessions, together with all the messuages, domain houses, cottages, barns, grist mills, and the profits thereof: houses, out-houses, stables, and all and other the premisses, and appurtenances,

Now this indenture witnesseth, that the said *Richard Murray*, for and in consideration of the sum of one hundred pounds, Halifax currency,

doth grant, bargain, sell, alien, assign, remise, release, and forever quit claim, unto the said *Malcolm Fraser*, all the estate, right, title, interest, term of years to come, claim, profits, property, or demand whatsoever which he the said *Richard Murray*, now hath, or which he, his executors, administrators, or assigns, at any time hereafter may or ought to have, of, in or to the said in part recited Indenture of Lease: and the land, tenements, and messuages, thereby demised, with the appurtenances, and every or any part or parcel thereof.

Registered in the said Office, on Wednesday the third day of August, 1768, at five o'clock in the afternoon, in the English Register, Letter B, page 403.

GEO. ALLSOPP, D. R.

This Indenture, made the seventh day of April, in the fourteenth year of the reign of our Sovereign Lord George the Third, by the grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, &c. and in the year of our Lord, one thousand seven hundred and seventy-four, between the Honorable *James Murray*, of the Parish of St. Mary-le-Bonne, in the county of Middlesex, Esq. Lieutenant General of His Majesty's Forces, of the one part, and *Henry Caldwell* of the parish of St. James, Westminster, in the said county of Middlesex, Esquire, of the other part, witnesseth, that the said *James Murray*, for and in consideration of the rent, covenants and agreements, hereinafter reserved, mentioned, expressed, and contained, hath demised, granted and to farm let, and by these presents, doth demise, grant, and to

farm let unto the said Henry Caldwell, all that his the said James Murray's Seigniorie or Manor of Lauzon; and all that the *Seigniorie of Rivière du Loup, and fief of Madawaska*; and also the *Seigniorie* on Lake Champlain, purchased by the said James Murray, of the heirs of M. Foucault; together, also, with the house in St. John-street, in the city of Quebec; bought by him of M. Dansville; and also the Mansion House, and lands of Sans Bruit, and all that farm or fief, called Gourgeandière's farm, or Fief of St. Foix, in the Seigniorie of Sillery, with their and every of their rights, members and appurtenances, and *all and singular other the estates and possessions of the said James Murray, in the Province of Quebec, in North America.*

Appendix.
No. 38.
Extracts from British Evidence, Filed in Court.
Deed of assignment by R. Murray to M. Fraser, and indenture of lease. British Evidence, No. 21.

PROVINCE OF LOWER CANADA, }
District of Quebec, &c. }

George Allsopp, of the City of Quebec, Esquire, of lawful age, maketh oath and sayeth, that on the twenty-eighth day of June, which was in the year of our Lord, one thousand seven hundred and seventy-five, he, this Deponent, was acting Register at the City of Quebec, in and for the then Province of Quebec, that on the said twenty-eighth day of June, a certain written instrument, purporting to be a lease of the premises therein mentioned, from the Honorable James Murray, to Henry Caldwell, Esquire, was received and recorded in the Register's Office, in the said City of Quebec, in the English Register, Letter E, page 504; the same having been first duly proved on oath by Daniel Sutherland, one of the subscribing witnesses to the execution thereof; he, the said Deponent, then having legal right and authority to administer an oath in such behalf; and the Deponent further saith, that the written instrument or lease now exhibited to him, and hereunto annexed, marked B, is the same whereof mention is made above, and that the signature, Daniel Sutherland, subscribed to the probate and affidavit thereon endorsed, is of the proper hand-writing of him, the said Daniel Sutherland, and that the signatures Geo. Allsopp, A. Regr. also thereon endorsed, are of the proper hand-writing of him, this Deponent, and further saith not.

GEO. ALLSOPP.

PROVINCE OF LOWER CANADA, } September 7, A. D. one thousand eight hundred
District of Quebec, &c. } and four.

The above named George Allsopp, of the City of Quebec, personally appearing, and after being carefully examined and duly cautioned, made solemn oath that the foregoing deposition, by him subscribed, contained the truth, and nothing but the truth.

Before J. ELMSLEY,
Chief Justice of Lower Canada.

The above deposition, taken at the request of Henry Caldwell, Esquire, to be used in the causes to be heard and tried before the Honorable the Circuit Court of the United States, next to be holden at Rutland, within and for the District of Vermont, on the third day of October next ensuing, in which causes Henry Caldwell, Esquire, is Plaintiff; and Joseph Sewell, Esquire, Junior, David Logan, and John P. Storms, are Defendants; the Deponent, living more than one hundred miles from the place of trial, and the adverse Parties living more than one hundred miles from the place of caption, were not notified nor present.

Certified by J. ELMSLEY,
Chief Justice

Appendix.
No. 58.

Lease from Henry Caldwell to Malcolm Fraser, 24th September, 1782.

Extracts from British Evidence, Vol. 6, Malouaska.

Lease from H. Caldwell to M. Fraser, 24th September, No. 58.

This Indenture made the *twenty-fourth day of September*, in the twenty-second year of the reign of our Sovereign Lord George the Third, by the Grace of God of Great Britain, France and Ireland, King, Defender of the Faith, &c. in the year of our Lord, *one thousand seven hundred and eighty-two*, between the Honorable *Henry Caldwell*, Esquire, of the parish of St. Foix, in the Province of Quebec, of the one part, and *Captain Malcolm Fraser*, of His Majesty's eighty-fourth Regiment of Foot, of the other part, witnesseth: that the said Henry Caldwell for and in consideration of the rent, covenants and agreements, hereinafter reserved, hath demised, granted and to farm let, and by these presents, doth demise, grant and to farm let, unto the said Malcolm Fraser, all that SEIGNEURIE OR MANOR OF RIVIERE DU LOUP, AND FIEF OF MADOUASKA, together with Isle Rouge, and six thousand acres of land behind the said Seigneurie of Rivière du Loup, as described in a grant thereof, under the Great Seal of the said Province, dated the seventh of May, seventeen hundred and sixty-six, in favor of Richard Murray and Malcolm Fraser, Esquires, with all their and every of their rights, members and appurtenances.

I do hereby certify that this and the foregoing six half sheets of paper contain a true copy of an Entry, as on record in the Register's Office of the Records at Quebec, in the English Register, Letter E, page 737.

PROVINCIAL SECRETARY'S OFFICE, }
Quebec, 12th November, 1828. }

D. DALY,
Sec. and Reg.

Confirmation of Lease from H. Caldwell, &c.—British Evidence, No. 23.

N. B. These papers form part of papers previously recorded in this Register. Page 737.

(Signed)

G. P.

D. D.

Sec. and Reg.

At Quebec, this twenty-seventh day of December, in the year of our Lord, one thousand seven hundred and eighty-six, personally appeared before me, Charles Stewart, Notary Public, for the City and Province of Quebec, duly admitted, residing in Quebec; the Honorable *Henry Caldwell*, Esquire, of the parish of St. Foix, in the said Province of Quebec, and Captain *Malcolm Fraser*, late of His Majesty's eighty-fourth Regiment of Foot, who declared and acknowledged before me, the said Notary, hereunto subscribing, and the witnesses also subscribing, that a certain writing or indenture, bearing date *the twenty-fourth day of September*, in the year of our Lord, one thousand seven hundred and eighty-two, duly executed by and between them, the said Honorable Henry Caldwell and Captain Malcolm Fraser, purporting and being a lease of a *certain Seigneurie*, manor, *fief*, messuages, lands, tenements, and premises of Rivière du Loup and Fief of Madouaska, together with Isle Rouge, and six thousand acres of land behind the said Seigneurie of Rivière de Loup, as the same is described in a grant thereof, under the Great Seal of the said Province of Quebec, bearing date the seventh day of May, one thousand seven hundred and sixty-six, in favor of Richard Murray and Malcolm Fraser, Esquires, or as by the said Deed of Indenture, leased to him the said Captain Malcolm Fraser, by him the said Honorable Henry Caldwell, Esquire, for a certain number of years;

I do hereby certify that this and the foregoing two half sheets of paper, contain a true copy of an entry, as on record in the Register's Office of the Records at Quebec, in the English Register, Letter E, folio 512.

[Signed]

D. DALY,
Sec. and Reg.

Confirmation of
Lease from H.
Caldwell & Co. —
British Evidence
No. 21.

PROVINCIAL SECRETARY'S OFFICE, }
Quebec, 15th November, 1828. }

Province of Lower Canada.

On the twenty-first day of June, in the year of our Lord, one thousand eight hundred and two, in the afternoon, before us, Felix Tctu and Roger Lelievre, Notaries Public, duly admitted and sworn, for the Province of Lower Canada, and residing in the City of Quebec, in the said Province of Lower Canada, personally came, appeared and was present, the Honorable Jenkin Williams, one of His Majesty's Justices of the Court of King's Bench, for the District of Quebec, in the said Province, the true and lawful Attorney of and for Sir James Pulteney, (late Sir James Murray) of Bruton-street, in the County of Middlesex, in that part of the United Kingdom of Great Britain and Ireland, called England, Baronet; Humphrey Donaldson, of White Hall, in the said County of Middlesex, Esquire; and the Honorable Anne Murray, of Beauport, in the County of Sussex, in that part of the United Kingdom of Great Britain and Ireland, called England, widow of the Honorable James Murray, late of Beauport aforesaid, a General in his Majesty's Forces, some time since deceased; the three only acting Trustees and Executors, named and appointed in and by the last will and testament of the said Honorable James Murray, deceased:

Deed of Sale from
the Trustees of
James Murray to
H. Caldwell, British
Evidence No. 21.

And, therefore, in the presence of us, the said Notaries, the said Jenkin Williams, in the name, and on the part and behalf of and for the said Sir James Pulteney, Humphry Donaldson, and Anne Murray, in pursuance of the aforesaid agreement, and for and in consideration of the sum of five thousand one hundred and eighty pounds sterling money aforesaid, by the said Henry Caldwell, to the said Sir James Pulteney, Humphry Donaldson, and Anne Murray, well and truly paid before the execution of these presents, as more particularly appears by a certain stamp receipt hereunto annexed, signed by the said Humphry Donaldson, and bearing date the twenty-second day of August, in the year of our Lord Christ, one thousand eight hundred and one; the receipt whereof the said Jenkin Williams, for and in the name, and on the part and behalf of the said Sir James Pulteney, Humphry Donaldson, and Anne Murray, in the presence of us, the said Notaries, did and doth upon the faith and credit of the said receipt, hereby acknowledge, and thereof and therefrom and of and from every part and parcel thereof, in the presence of us, the said Notaries, did and hereby doth wholly, clearly, and absolutely exonerate and discharge the said Henry Caldwell, his heirs, executors, curators, and administrators, and each and every of them forever; and in consideration of the further sum of five thousand pounds, like sterling money, well and truly to be paid by the said Henry Caldwell, to them the said Sir James Pulteney, Humphry Donaldson, and Anne Murray, in manner herein-after covenanted and contained, did in the presence of us, the said Notaries, and hereby doth fully, clearly, and absolutely grant, bargain, sell, assign, transfer, convey, set over, and assure unto the said Henry Caldwell, with guarantee against all incumbrances,

Appendix. mortgages, evictions, rights, debts, claims, and demands whatsoever, all that Seigniorie or Manor of Lauzon, and all that SEIGNIORIE OF RIVIERE DU LOUP, AND FIEF

No. 58.
Excerpts from British Evidence, No. 58.
of Madouaska.

Deed of Sale from the Trustees of James Murray to H. Caldwell, British Evidence, No. 58.

MADOUASKA; and also all that Seigniorie or Manor on Lake Champlain, purchased by the said James Murray, deceased, of the heirs of Mr. Foucault; together, also, with the house in St. John's street, in the said City of Quebec, bought by him of M. Dansville; and also the mansion-house and lands of Sans Bruit; and also all that farm or fief called Gorgendière's Farm, or Fief of St. Foi, in the Seigniorie of Sillery, in the District of Quebec, with their and every of their rights, members, and appurtenances, and all and singular *other the estates and possessions, late of him the said James Murray, deceased, in the Province of Quebec, (now Provinces of Upper and Lower Canada, in North America.)*

And for the due execution of these presents, the said parties have respectively made election of their domicile at the office of the said Felix Tetu, Notary, in the City of Quebec, in the said Province of Lower Canada, where, &c. notwithstanding, &c. promising, &c. renouncing, &c.

Thus done and passed at the aforesaid City of Quebec, in the house of the said Jenkin Williams, the day and year first above written, the said parties having to these presents, (first read in the presence and hearing of them, the said Jenkin Williams and Henry Caldwell, and of us, the undersigned Notaries) set and subscribed their names and signatures, in the presence of us the said Felix Tetu and Roger Lelievre, Notaries as aforesaid, who have hereunto set and subscribed our names and signatures, in faith and testimony of the premises. Thus signed on the original.

[Signed]

J. WILLIAMS, *Attorney*, (as abovementioned.)

HENRY CALDWELL,

R. LELIEVRE, *Not. Pub.*

F. TETU, *N. P.*

In testimonium veritatis,

F. TETU, *N. P.*

His Excellency Sir James Kempt, Knight Grand Cross of the Most Honorable Military Order of the Bath, Lieutenant General and Commander of all His Majesty's Forces in the Provinces of Lower Canada and Upper Canada, &c. &c. &c. and administrator of the Government of the said Province of Lower Canada.

JAMES KEMPT.

To all whom these presents may concern:

I do hereby certify that Felix Tetu is a Public Notary for the Province of Lower Canada, duly commissioned and authorized as such; in consequence whereof full faith and entire credit are and ought to be given to his signature in such capacity, wherever the same may appear.

Given under my hand and the Great Seal of the Province of Lower Canada, hereunto affixed, at the Castle of Saint Louis, in the City of Quebec, the sixth day of November, one thousand eight hundred and twenty-eight, and in the ninth year of His Majesty's reign.

By his Excellency's command.

[Seal annexed.]

D. DALY,

Secretary and Registrar.

Deed of Sale by Henry Caldwell to Alexander Fraser, British Evidence, No. 57.

On the eighth day of October, in the year of our Lord, one thousand eight hundred and one, before us, Felix Tetu and Roger Lelievre, Notaries Public, *for the Province of Lower Canada, residing in the City of Quebec, in the said Province*, personally appeared and were present, *Henry Caldwell*, of Belmont, in the parish of Saint Foi, near the said City of Quebec, Esquire, of the one part, and *Alexander Fraser*,

one of the partners of a company of Merchants, trading from Canada to the North-west of America, now residing in the said City of Quebec, of the other part, which said parties, in the presence of us the said Notaries, did acknowledge and declare, as follows: That is to say; the said *Henry Caldwell*, as having purchased and acquired the estates which belonged to the late *General James Murray, some time Governor of this then Province of Quebec, now the Provinces of Upper and Lower Canada*, Appendix.
No. 53.
Extracts from British Evidence, Piece of Madawaska.
Deed of Sale by H. Caldwell to Alex. Fraser. British Evidence, No. 25.

doth, for and in consideration of the sum of one thousand seven hundred and sixty-six pounds, sterling money of Great Britain, equal to the sum of one thousand nine hundred and sixty-two pounds, four shillings, and five pence half-penny, currency of the said Province of Lower Canada,

covenant and agree to and with the said Alexander Fraser, his heirs and assigns, and every of them, that (as soon as in consequence of the said agreement between the said Henry Caldwell and the said Trustees and Executors of the said General James Murray, above named, the purchase of the *said property in Canada, of the said late General James Murray*, is completed by him, the said Henry Caldwell) he the said Henry Caldwell, his heirs and assigns, shall and will,

well and sufficiently grant, bargain, sell, release, convey, and assure to the use of the said Alexander Fraser, and his heirs and assigns forever, with such warranty and other fit and reasonable covenants, against the acts, deeds and incumbrances of the said Henry Caldwell, Esquire, and all persons claiming by, from or under him, as by the said Alexander Fraser, his heirs and assigns, or his or their Counsel learned in the law, shall be reasonably devised, advised, or required, all that SEIGNIORY OF RIVIERE DU LOUP, AND FIEF OF MADOUASKA, TOGETHER WITH *Lake Temisquata, and the lands adjoining thereto*, with the Isle Rouge, and six thousand acres of land behind the said Seignior of Rivière du Loup, as described in a grant thereof, under the Great Seal of the said Province of Quebec, dated the seventh day of May, one thousand seven hundred and sixty-six, in favor of Richard Murray, Esquire, and the said Malcolm Fraser, Esquire, and made over by them to the said General James Murray, will more fully appear; together with all the Islands in the River St. Lawrence, lying opposite to the said Seignior of Rivière du Loup; as also all other lakes, woods, rivers, and fisheries, depending on the said Seignior of Rivière du Loup, *as particularly described in the original title deeds of the said Seignior of the said Rivière du Loup, Fief of Madouaska, and Lake Temisquata.*

Thus done and passed at the *City of Quebec, in the house and office of the said Felix Tetu, one of the subscribing Notaries*, in the forenoon of the said eighth day of October, in the year of our Lord, one thousand eight hundred and one; the said Henry Caldwell and Alexander Fraser, having to these presents, first duly read in the presence and hearing of them the said Henry Caldwell and Alexander Fraser, and of us the said Notaries, according to law, and deposited in the office of the said Felix Tetu, set and subscribed their respective names and signatures, in the presence of us the said Notaries, who have also hereunto set and subscribed our names and signatures, in faith and testimony of the premises. Thus signed on the original:

HENRY CALDWELL,
ALEX. FRASER,
R. LELIEVRE, *Not. Pub.*
F. TETU, *Not. Pub.*

In testimonium veritatis,

F. TETU, *Not. Pub.*

Appendix. On the second day of August, in the year of our Lord, one thousand eight hundred and two, before us Felix Tetu and Roger Lelievre, Public Notaries, duly admitted and sworn for the Province of Lower Canada, residing in the City of Quebec, in the said Province, personally came and appeared Henry Caldwell, of Belmont, in the Parish of Saint Foi, near the City of Quebec, of the one part, and Malcolm Fraser, Esquire, of the said City of Quebec, the Attorney duly constituted and appointed, of Alexander Fraser, Esquire, party to the above written deed;

Extracts from British Evidence, Fief of Madawaska.

Deed of Sale by H. Caldwell to Alex. Fraser. British Evidence, No. 25

Now, therefore, for the purpose of carrying into full effect, the said above written agreement, and for the consideration therein mentioned, the said Henry Caldwell, for himself, his heirs, executors, curators, and administrators, doth grant, bargain, sell, release, convey, assure, and set over to the use of the said Alexander Fraser, his heirs and assigns, forever, with guarantee against all incumbrances, mortgages, dowers, evictions, rights, debts, dues, claims, and demands whatsoever, the said Seigniorie of Rivière du Loup, Fief of Madouaska, above described, and the Lake Temisquata, and the lands adjoining thereto, with the Isle Rouge, and six thousand acres of land behind the said Seigniorie of Rivière du Loup, with all their and every of their rights, members, and appurtenances, and all royalties, fisheries, profits, benefits, and advantages to the said Seigniorie, Fief, and other lands, or either of them belonging, or anywise appertaining, as the same was purchased by the said General James Murray of Mr. Dansville.

Thus done and passed at the said City of Quebec, in the office of the said Felix Tetu, the day and year first above written, the said Henry Caldwell and Malcolm Fraser, having to these presents, first duly read and deposited in the office of the said Felix Tetu, set their hands in the presence of us, the said Felix Tetu and Roger Lelievre, who have also herunto set our hands and signatures, in faith and testimony of the premises. Thus signed on the original:

HENRY CALDWELL,
MALCOLM FRASER,
R. LELIEVRE, *Not. Pub.*
F. TETU, *Not. Pub.*

In testimonium veritatis,

F. TETU, *Not. Pub.*

JAMES KEMPT. His Excellency Sir James Kempt, Knight Grand Cross of the Most Honorable Military Order of the Bath, Lieutenant General and Commander of all His Majesty's Forces in the Provinces of Lower Canada and Upper Canada, &c. &c. &c. and Administrator of the Government of the said Province of Lower Canada.

To all whom these presents may concern:

I hereby certify that Felix Tetu is a Public Notary for the Province of Lower Canada, duly commissioned and authorized as such; in consequence whereof full faith and entire credit, are and ought to be given to his signature in such capacity, wherever the same may appear.

APPENDIX, No. LIX.

EXTRACTS

FROM

THE BRITISH EVIDENCE.

BOUNDARY OF CANADA.

QUEBEC, SS. (2.)

SECRETARY'S OFFICE,
19th January, 1765.

Whereas the nation of Maricitte Indians, *by the following paragraph of a Petition to his Excellency the Governor of this Province*, have represented that they are eneroached upon by the Canadian inhabitants hunting beaver *on the lands therein mentioned*, which have ever belonged to, and are the property of the said Nation: this, therefore, is to give notice, that the privilege prayed for by the said Indians will be allowed and confirmed to them, unless any person or persons can shew just cause to the contrary, by memorial to his Excellency the Governor and Council, directed to the Secretary of this Province, on or before the first day of May next.

By command of His Excellency.

J. GOLDFRAP, *D. Sec.*

"Your petitioner has also the honor to represent to your Excellency, that his brethren Indians find themselves reduced to the lowest ebb of misery, by the unwarrantable eneroachments of the Candian inhabitants, hunting beaver on the lands belonging to the nation, by which your Petitioner has been deputed; *which tract begins at the great falls of St. John's, and runs as far as Temisquata, including the Wolf River (or Rivière du Loup) and the River Madawaska, which rivers discharge themselves into the River St. John's, making a space of about twenty leagues, on which the nation, whose grievances your Petitioner has the honor to lay before your Excellency, always had an exclusive privilege of hunting beaver in the time of the French Government; therefore your Petitioner humbly requests, in the name of his nation, that your Excellency will be pleased to continue their privilege, by forbidding the inhabitants of this Province to hunt beaver on the said grounds.*"

(3)

QUEBEC, November 11, 1784.

About eleven o'clock on Friday last, Charles Nishonoit, an Indian lad, about fifteen years of age, of the Penobscot Tribe, was executed on the rode side, a little out of St. John's Suburbs, for the most barbarous and savage murder of Mr. Archibald McNeil and ——— Dufour, his guide, in July last, while they were asleep, some distance below Kamouraska, on their way to Halifax.

Appendix. Proceedings in the Court of Common Pleas at Quebec, commencing 14th September, 1789; ending 20th January, 1791.
No. 59.

Extracts from the
British Evidence.
Boundary of Can-
ada.

PROVINCE DU BAS CANADA,
District of Quebec.

Cour des Plaidoyers Communs—Term de Septembre.

Lundi, 14 Septembre, 1789.

Present,

ADAM MABANE, PIERRE PANET, Ecuiers.

ANSELME & MICHAEL ROBICHAUX v. AUGUSTIN DUBÉ & PIERRE DUPÈRE,
de Madouaska.

Le Sheriff fait son retour du service de la sommation, M^{re} Panet paroît pour les demandeurs et a filé trois Licences et une lettre citée dans sa déclaration, M^{re} Cugnet comparoit pour les défendeurs, la Cour ordonne, que la Défendeur prendra communication des pièces filés par la demandeur et fournira ses défenses sous trois jours.

17 Septembre, 1789.

M^{re} Cugnet, pour les défendeurs a filé ses défenses, la Cour ordonne, que le demandeur en prendra communication et fournira ses répliques sous trois jours.

28 Septembre, 1789.

M^{re} Panet pour les demandeurs a filé ses répliques, la Cour ordonne, que le défendeur en prendra communication.

30 Septembre, 1789.

La Cour du consentement des parties a mis en délibéré.

4 Janvier, 1790.

La Cour, en procédant au délibéré de cette cause, ayant remarqué, que les défendeurs ont allégué dans leurs écrit de défenses, qu'il ne sont pas de la juridiction de cette Cour, mais domiciliés de la Province de Brunswick, auquel allégué les demandeurs n'ont pas répondu dans leurs écrit de répliques, ordonne, que les demandeurs déclareront et feront inscrire sur le registre de cette Cour s'ils admettent l'allégué des défendeurs ou non.

9 Janvier, 1790.

M^{re} Panet, Avocat des demandeurs, a déclaré, en conformité du jugement de cette Cour du quatre Janvier der. qu'ils soutiennent, que les défendeurs ont été assignés dans la Province de Quebec, et que l'assignation est suffisante de laquelle déclaration cette Cour a donné acte, et a fixé à Lundi pour entendre la cause.

11 Janvier, 1790.

Après avoir entendu les parties, la Cour ordonne qu'elles feront preuve respective Vendredi prochain, si Madouaska et le Grand Sault sont dans la Province de Quebec ou non.

14 Janvier, 1790.

Sur la motion de M^{re} Panet la Cour ordonne, que les preuves seront peremptoirement entendues et reçues Vendredi prochain.

18 Janvier, 1790.

M^{re} Panet a dit, qu'il n'a d'autre preuve à produire en conformité du Jugement du onze de ce mois, que les licences des demandeurs filées, et la règle du 14 Septembre, pour fournir les défenses, M^{re} Cugnet demande jusqu'au terme prochain pour faire preuve, de son allégué en ses défenses: la Cour parties ouïes mets en délibéré.

22 Mars, 1790. *Appendix*
No. 59.

La Cour ayant considéré les Plaidoyers des parties, et après en avoir délibéré, est d'opinion que les défendeurs ne se sont pas conformés à l'article onzième des règles de cette Cour, ayant du lors du jour de retour des sommations filé leur exception, soit peremptoires, delatoires ou declinatoires, que le même jour, auquel M^{re} Cugnet, leurs Avocat filât sa comparation il fut ordonné, qu'il fournirait ses défenses et non un écrit intitulé mal à propos, défenses, qui cependant est une exception declinatoire, que les défendeurs n'ayant aucunement prouvé ainsi qu'il lui étoit permis, de le faire par le jugement interlocutoire de cette Cour, que les assignations à eux données ont été signifiées hors de la juridiction de cette dite Cour, ils en sont forclos d'après ces considérations, la Cour deboute les défendeurs de leurs exception declinatoire qu'ils ont qualifiée de défenses avec dépens occasionnés par la dite exception, et ordonne qu'ils fourniront leurs défenses au mérite de la cause sous trois jours.

Extracts from the
British Evidence
Boundary of Can-
ada.
—
Proceedings in the
Court of Common
Pleas of Quebec,
Sep. 14, 1790. B.
Ex. No. 29.

Monday, 9th July, 1787.

Present,

His Excellency the Right Honorable GUY Lord Dorchester, Governor.
The Honorable HENRY HOPE, Esq. Lieutenant Governor.

WILLIAM SMITH, C. J.
HUGH FINLAY,
GEORGE POWNALL,
HENRY CALDWELL,
P. R. DE ST. OURS,

LE COMPTE DUPRE.
EDWARD HARRISON,
J. G. C. DE LERY,
WILLIAM GRANT.
FRANCIS BABY, Esquires.

Extract from the
Minutes of the Ex-
ecutive Council of
Quebec, July 9
1787. Br. Ex. No.
31.

His Lordship intimated the propriety of *ascertaining the limits between this and the Province of New Brunswick*, and that the Surveyor General of that Province would soon meet Mr. Holland for that purpose; and as it was absolutely requisite towards opening and sustaining the land communication between the two Provinces, that the lands on both sides of it should be settled, his Lordship proposed, and the Council concurred in authorizing Mr. Holland to give assurances to all persons to settle there, and especially the *Acadians in that vicinity, of the favorable intentions of this Government to issue Grants in their favour for three hundred acres to the head of every family, out of the waste lands of the Crown in that quarter; and it is for that purpose recommended to them to explore the places fit for cultivation on both sides of the route, and apply, by petition, in the usual course, for grants to be made, agreeable to the Royal instructions.*

Copy of his Excellency Lord Dorchester's Instructions to Mr. John Holland.

QUEBEC, 9th July, 1787.

Lord Dorches-
ter's instructions
to Mr. John Hol-
land. Br. Ex. No. 32.

Sir:—You will be pleased to accompany Mr. Finlay to the Great Falls on the River St. John, in order to assist in marking out the Boundary between the Provinces of Quebec and New Brunswick, where it crosses the road of communication between these two Provinces, in such a manner that the lands at the different carrying places, and throughout the whole of the said communication on both sides, may be granted by the respective Governments without delay. You will there meet the Surveyor-General of the Province of New Brunswick, or some other person or persons authorized by the Lieutenant Governor of the said Province, in concert with whom and Mr. Finlay you will proceed upon that business.

Appendix.
No. 59.

Extracts from the
British Evidence
Boundary of Can-
ada.

Lord Dorches-
ter's Instructions
to Mr. John Hol-
land.—British
Evidence, No. 32.

“You will be guided therein by the inclosed descriptions of the Boundaries of the Provinces of Quebec, Nova Scotia, and New Brunswick, extracted from my Commissions as Governor thereof; to which is likewise added the description of the Boundary of the United States, taken from the Definitive Treaty for your information.

“The Boundary established, you will neglect no opportunity of assuring all persons desirous to settle *on this side of it*, and *particularly the Acadians in that vicinity*, of the good dispositions of Government in their favour, as expressed in the enclosed Minute of Council, which you will communicate to them, leaving copies thereof with some of the people for their satisfaction.

“Such spots as Mr. Finlay may point out to you at the different carrying places, as most necessary to be settled for the establishment of Post-houses on the road of communication, you will more especially make the objects of your attention, explaining to the people the advantages of such situations.

“In general your own prudence will direct to the different objects necessary to be attended to upon the whole of these services, in the course of which you will have the advantage of consulting Mr. Finlay's judgment and experience.

“You will return to this place as soon as they are accomplished, and report to me your proceedings, with such observations as may have occurred to you, tending to the advantage of the King's service; and more particularly to the *facilitating the communication between the two Provinces*.

“I am, with regard,

[Signed] “DORCHESTER.

“True copy.

[Signed] “HENRY MOTZ.”

Letter by way of Report from Mr. John Holland.

QUEBEC, 26th July, 1787.

Mr. Holland's
report.—British
Evidence, No. 32.

My Lord.

I have the honour to report, that pursuant to your Excellency's orders and instructions, dated the 9th of July, I on the day following left Quebec and proceeded in company with Mr. Finlay to the *Great Falls on the River St. John*; that on the 16th of July, at the Acadian Settlement opposite Madewaska, met Captain Sproule, the Surveyor-General of New Brunswick; he informed me, that conceiving his waiting for us at the Great Falls to be totally unnecessary, he was now proceeding on his way to the Height of Land on the carrying place, situate between the River St. Lawrence and Lake Timiscouta; as there (according to his idea) the Boundary ought to be fixed. In reply to his remarks, I observed, that *it was generally understood in Canada, that the line between the Provinces of Quebec and New Brunswick should run from the head of Chaleur Bay, along the high lands in a westerly direction to the Great Falls on the St. John's River*, and from thence West to the westernmost, or main branch of the River St. Croix. He answered, that should a Boundary be fixed at or near the Great Falls, he would protest against such doings, as contrary to the directions laid down in his instructions.

“On Tuesday morning, the 17th, Captain Sproule having met Mr. Finlay and me, and, after talking over the subject of the Boundary Line, he repeated nearly what he had said before, adding, that he would proceed immediately to the Portage, to examine which way the waters incline on the heights there; that by their course he might be enabled to ascertain the Boundary between the Provinces of Quebec and New Brunswick, as all the streams running into the rivers which empty themselves into the River St. John, are in the Province of New Brunswick, and those which fall into the St. Lawrence, are in the Province of Quebec.

"After using many arguments to shew him the impropriety and disadvantages that would attend the fixing a Boundary on the Portage; the vast tract of country which must, for many years, remain unsettled, by its falling in their Province, their nearest settlement being, at least, two hundred miles distant from the heights on the Portage: *the repugnancy expressed by the Accadians (settled near the Madawaska Falls) at the idea of being separated from this Province, to which they are attached by numberless ties and reasons; but more especially, that the fixing that limit would materially affect the Boundary between us and the United States of America; and that a large territory would thereby be saved or lost to His Majesty's dominions; and that the heights of land run from the Bay of Chaleur to the River St. John, and strike it at, or near, the Great Falls.*

Appendix.
No. 59.

Extracts from the
British Evidence,
Boundary of Can-
ada.

Mr. Holland's Re-
port. - British Ev-
idence. No. 72.

"To ascertain which, and more positively determine the situation, and explore the face of the country, we requested Captain Sproule to return with us to the Great Falls, to which he objected, saying, that his return there could answer no end, as the opinion he had already formed of the situation of the Boundary Line from geographical knowledge, and ocular demonstration, was unalterable, and that he was bound to observe General Carleton's instructions, which he produced, conceived in these words:

"By His Excellency Thomas Carleton, Lieutenant-Governor and Commander-in-Chief of the Province of New Brunswick, &c. &c. &c.

"To GEORGE SPROULE, Esq. Surveyor-General.

"You are hereby directed to proceed to the Great Falls of the River St. John, in order to meet the Surveyor-General of the Province of Quebec at that place on the 15th instant, for the purpose of settling the Boundary Line between the Province of Quebec and New Brunswick, in the execution whereof you will be governed by the Act of Parliament for establishing the Province of Quebec, which determines that Boundary to be the high lands which divide those waters that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean.

"Given under my hand at Fredericton, the seventh day of July, in the year of our Lord, one thousand seven hundred and eighty-seven.

[Signed] "THOMAS CARLETON."

On the 18th, Captain Sproule and we separated: he, on his way to the Portage, we to the Great Falls, where we found the country extremely mountainous; and, from information gathered from different persons, who have been from the St. John's River back in the country, and my own observations, have no doubt but that these mountains are the range which extend from the Bay of Chaleur to that River.

On consulting Mr. Finlay, and finding nothing further could be done towards ascertaining the Boundary Line, therefore, with his advice, returned to fulfil, as far as possible, the further requisitions as stated in the instructions your Lordship was pleased to honour me with.

I neglected no opportunity of encouraging and assuring those persons wishing to settle in that vicinity, of the favorable intentions of this Government towards them, leaving several copies of the minutes of Council among them, with which the Accadians, in particular, expressed an uncommon satisfaction.

I informed the people disposed to settle, of the spots Mr. Finlay pointed out as most convenient and necessary to be settled for the establishment of post-houses on the road; taking the utmost care and attention to explain to them the advantages of such situations. They in general were inclined to settle from the Falls up the St. John's River as far as Madawaska, the land being thus far good; but from

Appendix.
No. 59.

Extracts from the
British Evidence.
Boundary of Can-
ada.

thence to the River St. Lawrence, I found them much averse to settle, owing to the barrenness of the land in general, and their inability to support themselves for the first years of their settlement: upon the whole, I much fear that, without some further encouragement than the grant of land, the Portage *between the River St. Lawrence and Timiscouta*, will remain unsettled.

I have the honour to be,

with the utmost submission, my Lord,

your Lordship's most respectful,

and most obedient humble servant,

[Signed] JOHN FREDERICK HOLLAND.

Report of the Committee of Council appointed to consider the Boundary between the Provinces of Quebec and New Brunswick, and the means of encouraging the communication, and settle the Lands in that vicinity.

To his Excellency the Right Honourable Guy Lord Dorchester, Captain-General and Governor-in-Chief of the Province of Quebec, Nova Scotia, and New Brunswick, &c. &c. &c.

The Committee of Council appointed to report as well upon the *Question of the Boundary between this Province and that of New Brunswick*, as the most eligible means of encouraging the communication, and the settlement of the lands in that vicinity, have the honor to observe, that Mr. Holland's Report to your Excellency, has been duly considered by the Committee, who likewise paid thorough attention to the description of the Boundaries of the Provinces of Quebec and New Brunswick, as extracted from your Excellency's Commissions as Captain-General and Governor-in-Chief, and on the whole they beg leave to remark, that if the *Province of New Brunswick may of right claim the sources of rivers that take their rise on the height of land which divides the rivers that empty themselves into the St. Lawrence, from those which fall into the Atlantic Ocean, the ancient limits of this Government will be curtailed towards New Brunswick, and Seigniories under Canadian Grants, as far back as the years 1623 and 1683, be taken into that Province; besides, the Acadians already settled above the Great Fall of St. John's River, and such people as may chuse hereafter to settle there, would be greatly incommoded if those parts should be included in the Province of New Brunswick.* Their commercial dealings will be with this country, for they must, from their situation, be supplied with European and West India commodities from Quebec.

The Committee most humbly submit to your Lordship, whether it would not be for the advantage of both Governments, *that the Province of Quebec be separated from that of New Brunswick, by a line running along the highlands which extend from the head of Chaleurs Bay to the foot of the Great Fall of St. John's River, and from thence crossing the River, (so as to include the whole of the Portage or carrying place,) and continuing in a straight line towards the sources of the River Chaudiere, which rise on the high lands that commence at the said head of the Bay of Chaleurs, and extend all the way to the North-westernmost head of Connecticut River.*

With regard to settling the new road to Lake Timiscouta, along that Lake, and so down the Madawaska, the Committee beg leave to represent that the soil in that lengthy tract is poor in general; yet there is many parts through its whole extent fit for cultivation, though not of a quality to induce people to settle so far removed from assistance in their country labours, without good encouragement.

From information the Committee report, that some Canadian settlers may be had on the following terms: Appendix
No 51

To obtain a grant of two hundred acres of land, free from quit-rent, for twenty years, paying a sol de cens. Extracts from
British Library
Boundary of
ada.

To have four Acres cleared, and a log-house built thereon, consisting of two apartments, and to have an out-house of logs to serve as a stable and barn, with three years' provisions for each family.

The Committee have further been informed, that loyalists will set down on that tract, on the following conditions:

That each family have a grant of land (200 acres) free from quit-rent, for ten years.

Twenty-five pounds to be advanced, to stock the farm; the lands and improvements to be security that the money shall be repaid in ten years, but without interest. That each family be conveyed to the land allotted to them without expense. To have two years' provision allowed them, and delivered at their settlements.

The lands from the mouth of Madawaska, down to the Great Fall on St. John's River, are of a superior quality; it is therefore presumed that settlers would sit down in that part on less encouragement than is above demanded.

By order of the Committee.

[Signed] HUGH FINLAY, *Chairman.*

Council Chamber, 18th October, 1787.

*Extract from the Minutes of the Executive Council of the Province of Quebec.
4th August, 1792.*

Saturday, 4th August, 1792.

At the Council Chamber in the Bishop's Palace.

Present,

His Excellency Major General CLARKE, *Lieutenant Governor,*

And the Honorable WILLIAM SMITH,

HUGH FINLAY,

FRANCOIS BABY, Esquires.

Read the Memorial of A. and M. Robichaud, dated the 8th June, 1792.

Read a Report of the Committee of Council, appointed to consider *the Boundary between the Provinces of Quebec and New Brunswick, and the means of encouraging the communication and settlement of the lands in that vicinity, dated 18th October, 1787.*

Read a Judgment of the Court of Common Pleas, dated 15th February, 1792.

Read the Report of the Solicitor-General and Surveyor-General, dated Quebec, 29th July, 1792.

Ordered, *that these Papers be entered upon the Minutes, and it is humbly suggested by the Board, that it may be expedient to transmit copies to the Lieutenant Governor of the Province of New Brunswick, for his co-operating in representations to call the attention of His Majesty's Ministers to the adjustment of the limits necessary for preserving the public tranquillity on the borders of both Provinces.*

APPENDIX, No. LX.

EXTRACTS

FROM

THE BRITISH EVIDENCE.

MADAWASKA SETTLEMENT.

Appendix.
No. 60.

Extract from Mr.
Barnell's Report.
Pt. IV. No. 34.

This settlement derives its name from the River Madawaska, which empties itself into the River St. John, about 36 miles above the Grand Falls, and about 160 miles above Fredericton. The first settlers arrived soon after the Treaty of 1783, and the first, which was "of fifty-one several lots or plantations of land," was made to Joseph Muzzeroll, and 51 other French settlers, in the month of October, 1790, by Thomas Carleton, Esq., then Lieutenant Governor of the Province of New-Brunswick. The land granted lay at intervals between the River Verte and the Madawaska Rivers, nine miles distant from each other, and on both sides of the River St. John. The second grant was of 5,253 acres of land, lying below the River Verte, and was made to Joseph Soucer and others, by Lieutenant Governor Carleton, in August, 1794. These are the only grants ever made by the British Government within the settlement, excepting one to Lino Hibert, of 250 acres of land, opposite to and upon the River Madawaska, in May, 1825.

APPENDIX, No. LXI.

EXTRACT

FROM

BRITISH AGENT'S REPLY

BEFORE THE

COMMISSIONERS UNDER THE 4TH ARTICLE OF THE TREATY OF GHENT.

From Appendix to the Proceedings of the Commissioners under the 5th Article.

§ 75. The underwritten Agent also begs leave to lay before the Board, an original Letter, dated Providence, 23d October, 1798, from Robert Liston, Esquire, at that time his Majesty's Minister Plenipotentiary to the United States, whom his Majesty's Agent at that time thought it his duty to consult, before he could feel himself authorized to assent to the said proposal of the Agent of the United States at that time, to recommend to the said Commissioners under the 5th Article of the said Treaty of 1791, to alter their decision, as aforesaid, respecting the source of the said River St. Croix, which letter was addressed to, and duly received by, the said Agent of His Majesty before the same Commissioners, and is in the words and figures following, viz:

Appendix.
No. 61.

Extract from
British Agent's reply
before the
Commissioners
under the 5th art.
of the treaty of
Ghent.

“PROVIDENCE, 23d Oct. 1798.

“Private.

“Sir:

“I have considered with attention your letter of this day, and it appears to me evident that the adoption of the River Cheputnatecook, as a part of the Boundary between his Majesty's American Dominions and those of the United States, in preference to a line drawn from the easternmost point of the Scodiac Lakes, would be attended with considerable advantage. It would give an addition of Territory to the Province of New Brunswick, together with a greater extent of navigation on St. John's River; and above all, a larger stretch of natural frontier, calculated to prevent future difficulties and discussions between the two countries. If, therefore, by assenting to the proposal of the American Agent, you can bring about the unanimous concurrence of the Commissioners in this measure, I am of opinion that you will promote His Majesty's real interests; and I will take the earliest opportunity, with a view to your justification, of expressing these my sentiments on the subject to his Majesty's Secretary of State.

“I have the honor to be, with great truth and regard,

“Sir, your most obedient humble servant,

[Signed]

— ROB. LISTON.

“WARD CHIPMAN, Esq.”

FIRST STATEMENT

ON THE PART OF

GREAT BRITAIN,

ACCORDING TO THE PROVISIONS OF

THE CONVENTION

CONCLUDED BETWEEN

GREAT BRITAIN AND THE UNITED STATES,

ON THE 29th SEPTEMBER, 1827.

FOR REGULATING THE

REFERENCE TO ARBITRATION

OF THE

DISPUTED POINTS OF BOUNDARY

UNDER THE

FIFTH ARTICLE OF THE TREATY OF GHENT.

STATEMENT.

WITH a view to the full comprehension of the causes which have given rise to the present reference to foreign arbitration of the differences which exist between Great Britain and the United States, relative to that portion of the boundaries of their respective territories, which lies between the British Provinces of Lower Canada and New Brunswick, and the United States, it will be expedient, before the substance of those differences is entered upon, to give a brief historical sketch of the proceedings which have already taken place between the parties themselves respecting them.

Prefatory Historical Exposition.

Without such preliminary explanation, the references to many portions of those proceedings, which will be occasionally made in the course of this statement, would be scarcely intelligible.

In 1783, Great Britain recognized the independence of the thirteen United States, by a formal treaty, in one article of which the boundaries of the whole country so recognized were intended and believed to be accurately described and defined. In the course of the execution of that article, however, the definition of boundaries therein contained was found, in some essential parts, to be imperfect, and differences accordingly arose as to the real intent of some of the terms employed in it.

Some of these differences were adjusted by means of a subsequent Treaty concluded between the two Powers in 1794; and some at other times. Those respecting the Boundary from the source of the River St. Croix to the intersection of the parallel of 45° north latitude with the River St. Lawrence, were still unsettled at the period of the breaking out of the war between Great Britain and the United States in 1812.

By the Treaty of peace which terminated that war in 1814, new provisions respecting the disputed Boundaries were agreed upon between the parties. By one of those provisions it was stipulated that Commissioners should be respectively appointed by the Contracting Parties, for the purpose of ascertaining, surveying, and finally determining that part of the Boundary above described; and the decision of those Commissioners thereupon, when given, was to be taken as final and conclusive.

In case, however, they were unable to come to such decision between themselves, it was further provided, that they should make reports, either joint or separate, of their proceedings to the two Governments; and that those reports should be referred to the arbitration of some friendly sovereign or State.

Commissioners were accordingly conjointly appointed by the two Powers in 1815-16, who proceeded during several years to survey the disputed country, and to endeavour to arrange the business entrusted to them. Finding themselves, however, after long discussion and consideration of the case, unable to agree upon many essential points, they made, in 1822, separate reports of their proceedings to both Governments, as enjoined by the Treaty.

Profatory Historical Exposition.

Those reports, together with the papers appended to them, being found so voluminous and involved as to afford but little prospect of arriving at a satisfactory issue, if submitted in their actual shape to an arbiter, a new arrangement was entered into by the two Powers, and sanctioned by a Convention concluded between them on the 29th of September, 1827, for regulating that reference to arbitration.

By that Convention it was agreed to substitute for the existing reports of the Commissioners, fresh respective statements of the entire case, and to annex to those statements such of the existing documents or portions thereof, written or topographical, as each party might think fit; and also to adduce such new evidence as was by the said Convention mutually agreed upon.

The Convention in question is hereto annexed.*

Having thus premised in brief historical outline the general circumstances which, from 1783, down to the present period, have marked the progress of this question, the question itself may now be entered upon.

Appendix No. 1,
p. 1.

Provisions of
Treaties.

In stating the matters of difference between Great Britain and the United States, which form the subject of the present reference to arbitration, it will be advisable, in the outset, to recite all those portions of Treaties on which the points for reference hang, or to which they have immediate relation.

Appendix No. 2,
p. 4.

The Treaty of 1783 being the ground-work of the whole question, the preamble, together with the 1st and 2d articles of that Treaty, claim the first mention.

They run and provide as follows:

"It having pleased the Divine Providence to dispose the hearts of the Most Serene
"and Most Potent Prince George III, by the Grace of God, King of Great Britain, France,
"and Ireland, Defender of the Faith, Duke of Brunswick and Lunenburgh, Arch-Treasurer and Prince Elector of the Holy Roman Empire, &c., and of the United States of
"America, to forget all past misunderstandings and differences that have unhappily interrupted
"the good correspondence and friendship which they mutually wish to restore; and to establish such a beneficial and satisfactory intercourse between the two countries, upon the
"ground of reciprocal advantages and mutual convenience, as may promote and secure to both
"perpetual peace and harmony; and having for this desirable end already laid the foundation
"of peace and reconciliation, by the Provisional Articles signed at Paris, on the 30th of
"November, 1782, by the Commissioners empowered on each part, which articles were
"agreed to be inserted in, and to constitute, the Treaty of Peace, proposed to be concluded
"between the Crown of Great Britain and the said United States, but which Treaty was
"not to be concluded until terms of peace should be agreed upon between Great Britain and
"France, and His Britannic Majesty should be ready to conclude such treaty accordingly;
"and the Treaty between Great Britain and France having since been concluded, His
"Britannic Majesty and the United States of America, in order to carry into full effect the
"Provisional Articles above mentioned, according to the tenor thereof, have constituted and
"appointed, that is to say, His Britannic Majesty, on his part—David Hartley, Esq. Member

* N. B. In addition to the two Maps, namely, the Map A, and Mitchell's Map, officially annexed to the Convention, a separate and detailed transcript of the Map A, (Marked A a,) accurately compiled from the surveys made by order of the Commissioners, under the 5th Article of the Treaty of Ghent, is annexed hereto on the part of Great Britain, for purposes of general illustration of the subjects treated of in the British Statements.

“of the Parliament of Great Britain; and the said United States on their part—John Adams, Esq. late a Commissioner of the United States of America at the Court of Versailles, late Delegate in Congress from the State of Massachusetts, and Chief Justice of the said State, and Minister Plenipotentiary of the said United States to their High Mightinesses the States-General of the United Netherlands; Benjamin Franklin, Esq. late Delegate in Congress from the State of Pennsylvania, President of the Convention of the said State, and Minister Plenipotentiary from the United States of America at the Court of Versailles; John Jay, Esq. late President of Congress, and Chief Justice of the State of New York, and Minister Plenipotentiary from the said United States at the Court of Madrid; to be the Plenipotentiaries for the concluding and signing the present definitive Treaty: who, after having reciprocally communicated their respective full powers, have agreed upon and confirmed the following articles:

Provisions of
Treaties.

ARTICLE I.

“His Britannic Majesty acknowledges the said United States, viz: New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, to be Free, Sovereign, and Independent States; that He treats with them as such; and for Himself, His Heirs and Successors, relinquishes all claims to the government, propriety and territorial rights of the same, and every part thereof.”

ARTICLE II.

“And that all disputes which might arise in future on the subject of the Boundaries of the said United States may be prevented, it is hereby agreed and declared, that the following are and shall be their Boundaries, viz: from the north-west angle of Nova Scotia, viz: that angle which is formed by a line drawn due north from the source of St. Croix River, to the highlands; along the said highlands which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, to the north westernmost head of Connecticut River; thence down along the middle of that river to the forty-fifth degree of north latitude; from thence by a line due west on said latitude, until it strikes the River Iroquois or Cataraquy; thence along the middle of said river into Lake Ontario; through the middle of said lake, until it strikes the communication by water, between that lake and Lake Erie; thence along the middle of said communication into Lake Erie; through the middle of said lake, until it arrives at the water communication between that lake and Lake Huron; thence along the middle of said water communication into the Lake Huron; thence through the middle of said lake to the water communication between that lake and Lake Superior; thence through Lake Superior, northward of the Isles Royal and Phelipeaux, to the Long Lake; thence through the middle of said Long Lake and the water communication between it and the Lake of the Woods, to the said Lake of the Woods; thence through the said lake to the most north-western point thereof, and from thence on a due west course to the River Mississippi; thence by a line to be drawn along the middle of the said River Mississippi, until it shall intersect the northernmost part of the thirty-first degree of north latitude; south by a line to be drawn due east from the determination of the line last mentioned, in the latitude of 31° north of the Equator, to the middle of the River Apalachicola or Catapouche; thence along the middle thereof to its junction with the Flint River; thence straight to the

“ head of St. Mary’s River, and thence down along the middle of St. Mary’s River to the Atlantic Ocean :—East by a line to be drawn along the middle of the River St. Croix, from its mouth in the Bay of Fundy to its source ; and from its source directly north to the aforesaid highlands, which divide the rivers that fall into the Atlantic Ocean from those which fall into the River St. Lawrence : comprehending all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid Boundaries between Nova Scotia on the one part, and East Florida on the other, shall respectively touch the Bay of Fundy and the Atlantic Ocean ; excepting such islands as now are, or heretofore have been, within the limits of the said Province of Nova Scotia.”

The Preliminary Treaty of 1782 being adverted to in the Preamble to that of 1783, the Preamble to the first mentioned Treaty is likewise here inserted.

“ Whereas reciprocal advantages and mutual convenience are found by experience to form the only permanent foundation of peace and friendship between States, it is agreed to form the Articles of the proposed Treaty on such principles of liberal equity and reciprocity, as that partial advantages (those seeds of discord) being excluded, such a beneficial and satisfactory intercourse between the two countries may be established, as to promise and secure to both perpetual peace and harmony.”

Lastly, the Treaty of Ghent, which with respect to the boundaries in question, grows out of, and is grounded altogether upon, that of 1783, provides thereupon in Article V. as follows :

“ Whereas neither that point of the highlands lying due north from the source of the River St. Croix, designated in the former Treaty of Peace between the two Powers, as the north-west angle of Nova Scotia, nor the north-westernmost head of Connecticut River, have yet been ascertained ; and whereas that part of the Boundary Line, between the dominions of the two Powers, which extends from the source of the River St. Croix, directly north to the above-mentioned north-west angle of Nova Scotia ; thence along the said highlands which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River ; thence down along the middle of that river to the 45th degree of north latitude ; thence by a line due west on said latitude, until it strikes the River Iroquois or Cataraguy, has not yet been surveyed ; it is agreed that for these several purposes two Commissioners shall be appointed, sworn and authorized, to act exactly in the manner directed with respect to those mentioned in the next preceding article, unless otherwise specified in the present article. The said Commissioners shall meet at St. Andrews, in the Province of New Brunswick, and shall have power to adjourn to such other place, or places, as they shall think fit. The said Commissioners shall have power to ascertain and determine the point above mentioned, in conformity with the provisions of the said Treaty of Peace of 1783 ; and shall cause the Boundary aforesaid, from the source of the River St. Croix to the River Iroquois or Cataraguy, to be surveyed and marked according to the said provisions : the said Commissioners shall make a map of the said Boundary, and annex to it a declaration under their hands and seals, certifying it to be the true map of the said Boundary, and particularizing the latitude and longitude of the north-west angle of Nova Scotia, of the north-westernmost head of Connecticut River, and of such other points of the said Boundary, as they may deem proper. And both parties agree to consider such map and declaration as finally and conclusively fixing the said Boundary. And in the event of the said two Commissioners differing, or both, or either of them, refusing, declining, or wilfully omitting to act, such reports, declarations or statements, shall be made by them, or either of them, and

“such reference to a friendly Sovereign or State shall be made in all respects as in the latter
 “part of the fourth article is contained, and in as full a manner as if the same was herein
 “repeated.”

Provisions of
Treaties.

The contingent arrangement, relative to the proceedings of the Commissioners, with respect to Boundaries, adverted to in the above cited article, being provided for in the fourth article of the same Treaty, the part of that article relative thereto is also here inserted.

It runs as follows :

“It is further agreed, that in the event of the two Commissioners differing upon all or
 “any of the matters so referred to them, or in the event of both, or either, of the said Com-
 “missioners, refusing or declining, or wilfully omitting to act as such, they shall make,
 “jointly or separately, report or reports, as well to the Government of His Britannic Majesty
 “as to that of the United States, stating in detail the points on which they differ, and the
 “grounds upon which their respective opinions have been formed, or the grounds upon which
 “they or either of them have so refused, declined, or omitted to act. And His Britannic Ma-
 “jesty and the Government of the United States hereby agree to refer the report or reports of
 “the said Commissioners to some friendly Sovereign or State, to be then named for that pur-
 “pose, and who shall be requested to decide on the differences which may be stated in the
 “said report or reports, or upon the report of one Commissioner, together with the grounds
 “upon which the other Commissioner shall have refused, declined, or omitted to act, as the
 “case may be. And if the Commissioner so refusing, declining, or omitting to act, shall also
 “wilfully omit to state the grounds upon which he has so done, in such manner that the said
 “statement may be referred to such friendly Sovereign or State, together with the report of
 “such other Commissioner, then such Sovereign or State shall decide, *ex parte*, upon the
 “said report alone, and his Britannic Majesty and the Government of the United States
 “engage to consider the decision of such friendly Sovereign or State to be final and conclusive
 “on all the matters so referred.”

Before we come to treat of the differences which have arisen under the above
 cited provisions, it may be advisable to make a few preliminary remarks on the particular
 scope and tendency of those provisions, as it is conceived that such explanatory observa-
 tions may serve much to elucidate the subject of those differences.

Remarks on
Provisions of
Treaties

By an attentive examination of the stipulations contained in the 2d Article of the Treaty of 1783 above cited, aided by a recollection of the relative position of Great Britain to the United States, we mean as a Mother Country treating with Colonies not yet recognized as independent, it will be clearly perceived, that the main object had in view was not so much to designate the limits of the Territory reserved to the Mother Country, as to assign an appropriate Boundary to the new Power.

It is highly important to bear this circumstance constantly in mind, as it will tend to solve many difficulties attending this complicated question, and to clear up the obscurity in which some of its essential points are involved.

From the period of the cession to Great Britain by France of the Province of Canada, in 1763, to that of the Peace of 1783, the whole of that portion of North America belonged to Great Britain. When She determined to recognize the independence of a part of that Country, the question was what Boundaries to assign to that part. The arrangement respecting them was made in reference to the boundaries of the Provinces relinquished, and not in reference to those which remained under the Sovereignty of the King.

In tracing those Boundaries, it appears from the Treaty, that the first point which was sought to be established, was a point of departure for the general Boundary Line at the north-eastern extremity of the United States, that being taken as it were, as the governing point of the whole Boundary to be traced *west* of the River St. Croix, which river was adopted as the extreme *eastern* limit of those States. That point of departure, which was intended to form the north-east angle of the United States, is in the Treaty designated as the north-west angle of Nova Scotia, and described in the following Clause of the Treaty, viz: “*That angle which is formed by a line drawn due north from the source of St. Croix River to the highlands, along the said highlands which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean.*”

The main difficulty of this part of the case lies in discovering and establishing that point.

The extreme obscurity and confusion in which the whole question of Boundaries in that quarter was involved, both before and at the period in question, added to the very imperfect topographical knowledge then had of the interior of the Country, which was in fact but one general wilderness, rendered it absolutely impossible for the framers of the Treaty of 1783, to effect their declared intention of laying down the several points and lines of Boundary with such a degree of accuracy, as to preclude, altogether, doubts on particular parts of it. Accordingly, the very terms of the Treaty, in reference to the point in question, manifest the uncertainty of the negotiators; and they appear to have left to others the task of finding that point, guided by their description of it, rather than to have positively fixed it themselves.

The main object was to trace this part of the northern frontier of the United States in such a manner as to throw certain rivers *entirely* into their territory; and provided that object were accomplished, that is, provided the conditions attached to the highlands, and the point of departure on those highlands, were fulfilled, the relative position of that point of departure, with respect to the dominions of His Majesty, was of no importance. In truth, the provinces of Canada and Nova Scotia being both unsettled in those parts, and there being between them, at the period of the Treaty of 1782-3, no certain and acknowledged Boundary, no man knew where the north-west angle of Nova Scotia really was; and the negotiators of the Treaty proceeded by other modes to describe the intentions of their respective Governments, which were, to give to each Power the entire possession of the great rivers which have their mouths within their dominions, respectively; and thereby, as the preamble of the Treaty expresses it, “to establish such a beneficial and satisfactory intercourse between the two Countries, upon the ground of reciprocal advantages and mutual convenience as may promote and secure to both perpetual peace and harmony.”

If the letter of the Treaty therefore be not clear upon the points in question, we must appeal to the spirit and intentions of the framers of it, to elucidate that letter.

“Every Treaty,” says Vattel, “must be interpreted by certain fixed rules, calculated to determine its meaning, as naturally understood by the parties concerned, when the Treaty was drawn up and accepted;” and again, “since the sole object of a lawful interpretation of a deed ought to be the *discovery of the thoughts of the authors of that deed, whenever we meet with any obscurity in it, we are to consider what probably were the ideas of those who drew up the deed, and to interpret it accordingly.*” Again, “we must consider the whole discourse together, in order perfectly to conceive the sense of it.

“and to give to each expression not so much the signification, which it may *individually* admit of, as that which it ought to have from the *context and spirit* of the discourse.” Remarks on Provisions of Treaties.

Such is the light and sense in which Great Britain desires that the provisions of the Treaties now under consideration should be viewed and interpreted.

Having now premised such considerations as are calculated to insure a correct conception and understanding of the subject about to be discussed, we proceed to the consideration of that subject.*

The differences now referred to arbitration are three-fold.

1st. The Parties differ respecting the point designated in the Treaties as the north-west angle of Nova Scotia: And respecting the highlands along which the Line of Boundary is to be carried, which is destined to divide the rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean. Heads of difference.

2d. The Parties differ respecting the true north-westernmost head of the River Connecticut.

3d. The Parties differ respecting the line to be drawn from the River Connecticut along the parallel of 45° north latitude to the River St. Lawrence, called in the Treaties Iroquois or Cataraguy.

FIRST BRANCH OF DIFFERENCE RESPECTING THE POINT DESIGNATED IN THE TREATIES AS THE NORTH-WEST ANGLE OF NOVA SCOTIA, &c.

In treating the first stated branch of difference, the principal question to be determined is this: N. W. Angle of Nova Scotia, Highlands, and Rivers to be divided by those Highlands.

“Where is the point designated in the Treaties as the north-west angle of Nova Scotia?” This point can only be determined by first determining the other objects by which, according to the Treaty, that angle is entirely governed, namely, *the highlands and the rivers to be divided by those highlands.*

It will be observed that the 2d Article of the Treaty of 1783, after mentioning the north-west angle of Nova Scotia, as the *point of departure*, from whence is to be traced the line of northern boundary for the United States, in this part the Province of Massachusetts Bay, describes that *point* as an angle formed by a line drawn due north from the source of the St. Croix River to the highlands, and the *line* as running “*along the said highlands which divide those Rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River.*”

Great Britain contends that the point thus described is found at or near an elevation, called Mars Hill, which is situated in a due north line drawn from the source of the St. Croix River, and south of the River St. John; that the highlands intended by the Treaty are those extending from that point to the Connecticut River; and that the Rivers Penobscot, Kennebec, and Androscoggin, are the rivers falling into the Atlantic Ocean, which are

* As in the course of the investigation of the present question by the Arbitrator, it may be found expedient to make occasional reference to the historical circumstances which marked the contest between Great Britain and her Colonies, we have been induced to annex to the present Statement the history of the Reign of George III. by an historian of repute; and for greater convenience, we have inserted in the Appendix that chapter of the work which relates to the period which more immediately preceded the close of the contest. See Appendix No. 4, p. 14.

N. W. Angle of Nova Scotia, Highlands, and Rivers to be divided by those Highlands.

intended by the Treaty to be divided from the rivers which empty themselves into the River St. Lawrence.

The United States have sought for this point at a spot 145 miles north of the source of the River St. Croix; that is to the north of the River St. John, which falls into the Bay of Fundy, and of the River Restigouche which falls into the Bay of Chaleurs.

Bay of Fundy distinct from Atlantic Ocean,

The first point to be considered in treating this question, is, whether the term "*Atlantic Ocean*," as used in this part of the 2d Article of the Treaty of 1783, is not contra-distinguished from the term "*Bay of Fundy*." This is the cardinal point of the whole of this branch of difference between Great Britain and the United States. With respect to that point, then, Great Britain maintains, that throughout the whole Treaty of 1783, it is demonstrable by the Letter of the Treaty, as well as by collateral and inductive evidence, that the term "*Bay of Fundy*," is used as totally separate and distinct from the term "*Atlantic Ocean*;" and therefore on this as well as on other separate and peculiar grounds, that the River St. John which falls into the Bay of Fundy is taken as distinct from those rivers which are described in the Treaty as falling into the Atlantic Ocean. We proceed, therefore, at once to treat these two essential points, which, although in the closest affinity with each other, must be considered each on its own peculiar merits.

That, in the first place, the Bay of Fundy is not to be considered as comprehended, *under the Treaty*, in the Atlantic Ocean, is clearly demonstrable, it is conceived, from the following considerations:

In the second article of the Treaty of 1783, and in one of its most essential points of designation, viz: that of the extreme eastern and the extreme western sea-coast Boundaries of the United States, the Bay of Fundy and the Atlantic Ocean are *specifically* distinguished the one from the other; the latter or extreme western boundary, being in explicit terms, described as terminating in the Atlantic, *by name*, while the former or extreme eastern boundary is, in equally explicit terms, described as terminating in the Bay of Fundy, *by name*.

The extreme western limit on the sea-coast is described as formed by a line "drawn along the middle of St. Mary's River to the *Atlantic Ocean*." The extreme eastern limit is described as formed by a line "drawn along the middle of the River St. Croix from its "mouth in the *Bay of Fundy*," &c.

That article after describing other parts of the general boundaries concludes thus:

"Where the aforesaid boundaries between Nova Scotia on the one part, and East Florida on the other, shall *RESPECTIVELY* touch the Bay of Fundy *AND* the Atlantic Ocean."

If one of these two terms is to be taken as comprehended in the other, why specify both? The declaration that the boundaries, eastern and western, of the United States, should touch the Atlantic at each extremity of the country, would surely have been amply sufficient for all purposes of delimitation, had not the term "*Bay of Fundy*," been intended as totally distinct from the term "*Atlantic Ocean*."

In one part of the Treaty, then, the terms "*Bay of Fundy*" and "*Atlantic Ocean*" are manifestly intended as distinct and separate the one from the other. But being so taken in one part, they must surely be equally so considered in every other part; for it would be contrary to all reason and consistency to assign one meaning to a term in one clause, and a different meaning to the same term in another clause of the same instrument.

It may, however, be asserted in opposition to this view of the case, that all bays and gulfs are parts of the seas with which they are connected; and that however it may be

argued, that the Bay of Fundy is not a part of the Atlantic Ocean, from that ocean, whether under or independent of the Treaty, no force or ingenuity of argument can ever dis-
Bay of Fundy
distinct from
Atlantic Ocean.
 sever it.

Even setting aside the specific letter and intent of the individual Treaty now under consideration on this point, which we have above shewn to uphold the view taken by Great Britain, the argument above advanced is, we apprehend, altogether fallacious and inapplicable.

That bays and gulfs are, in the nature of things, parts of the sea, there can be no doubt; but it must be a very vague use of language when they are spoken of as component parts of seas of specific denomination, with which they are immediately connected. It cannot be questioned that it is the constant usage of geographers to apply specific names to the various branches or inlets of the sea, with the express purpose of presenting them to view as objects of distinct and separate consideration.

When we speak of the gulfs of Bothnia or Finland, do we not always consider them as distinct from the Baltic? Or of the Adriatic or Archipelago as distinct from the Mediterranean? So Baffin's Bay and Hudson's Bay would be considered as distinct from the Northern Ocean, and the Gulfs of Mexico and Florida, and Chesapeake Bay, from the Atlantic. Would it be correct or consistent with the received use of language to affirm that St. Petersburg is built on the Baltic, Venice on the Mediterranean, Amsterdam on the North Sea, Baltimore and Annapolis on the Atlantic Ocean? Yet all the bays and gulfs on which these places respectively stand, are to the respective seas, with which they are immediately connected, what the Bay of Fundy is to the Atlantic Ocean. Therefore, as all those bays and gulfs are taken as distinct from the seas and oceans with which they are respectively connected, so must the Bay of Fundy be taken as distinct from the Atlantic Ocean.

In the above application of the terms bay and gulf, we refer only to such as are real branches of the sea, into which rivers may or may not discharge themselves. There is another class of bays, so called by geographers, which are merely the expansions of the mouths of rivers, of which they bear the name, such as the Penobscot, the Sagadahock, the Delaware, and others of a similar character, which can be regarded in no other light than as portions of the rivers themselves.

The above reference to universal geographical practice is made, not as the sole, or even the principal, ground on which Great Britain rests the distinction which she claims for the Bay of Fundy, as separate from the Atlantic Ocean, but to shew that geographical practice, so far from being at variance with that claim, most strongly upholds and confirms it.

When the terms used by geographers to designate different portions of the sea are contained in Treaties and other solemn documents, especially when the very object is to define with precision the limits of conterminous States, the appropriate signification of such terms should be still more strictly adhered to.

In further corroboration of the same claim, it can be shown that the distinction between the Bay of Fundy, and the Atlantic Ocean, as well as between other bays and gulfs and the same ocean, has been constantly observed in public documents, having reference to the countries and districts bordering on such bays and gulfs, and the Atlantic Ocean, respectively.

Bay of Fundy
distinct from At-
lantic Ocean.

At the head of these documents must be placed Mitchell's Map,* annexed to the Convention of the 29th September, 1827, as an authentic document of reference.

That Map displays, broadly and clearly, the deeply-indented Bay of Fundy, as well as the Gulf of St. Lawrence, in large and conspicuous characters, each under its proper title, and totally distinct from the *Atlantic Ocean*.

We abstain from citing other maps in confirmation of the same fact, because, although other maps may have been consulted *in private* by the British and American negotiators, it is on record that that of Mitchell alone regulated their *public and joint* proceedings, and is, therefore, *alone* available as authentic evidence.

Appendix No. 5,
p. 32.

2dly. In the grant of Nova Scotia, by James I. to Sir William Alexander, the Bay of Fundy and the Gulf of St. Lawrence are specifically described and distinguished; the former from the adjacent parts of the sea, and the latter, as well from the sea as from the River St. Lawrence.

Appendix No. 6,
p. 33.

3dly. Governor Pownall, in his Topographical Description of the middle British American Colonies, published in 1776, expressly describes the Rivers having their sources in the ridges of highlands, and running southerly, "as falling into the Bay of Fundy, or "into the main ocean."

His description is of peculiar force, and entitled to especial consideration, since, independently of the high reputation of the author, it was published but six years before the opening of the negotiations in 1782, and was consequently most fresh in the minds of persons connected with the countries described.

Appendix No. 7,
p. 34.

4thly. In the Royal Proclamation, issued in 1763, the Gulf of St. Lawrence is designated by its appropriate title, and distinguished from the River St. Lawrence, and from the adjacent parts of the sea. Moreover, in the same document, a broad discrimination is, in other parts, made between the Atlantic and the gulfs and bays along the coast, as terms containing an entirely different sense, the one from the other. Witness the following clause: "The Government of East Florida is bounded to the westward by the *Gulf of Mexico*, * * * * and to the east and south by the *Atlantic Ocean* and the *Gulf of Florida*." Thus, as in the Treaty of 1783, the Boundary Line of the United States is described as respectively touching "the Bay of Fundy and the Atlantic Ocean," so here we find the government of East Florida described as bounded by "the Atlantic Ocean and the Gulf of Florida." What more conclusive proof of the reality of the distinction of terms insisted on by Great Britain can be required?

5thly. As another instance of geographical practice in distinguishing bays and gulfs from the ocean, we refer to the following Article† in "a plan of a Treaty with France, agreed upon by the Congress of the United States on the 17th September, 1776, to be proposed to His Most Christian Majesty:

"Art. IX. The Most Christian King shall never invade, nor, under any pretence, attempt to possess himself of Labrador, New Britain, Nova Scotia, Acadia, Canada, Florida, nor any of the Countries, Cities or Towns on the Continent of North America, nor of the Islands of New Foundland, Cape Breton, St. John's, Anticosti, nor of any other Island lying near to the said Continent, in the *seas*, or in any *gulf, bay, or river*."

It is to be observed, that of the islands above specified, Newfoundland and Cape Breton are bounded on one side by the broad ocean, and in another quarter by the Gulf

* Mitchell's Map B.

† See "Secret Journals of the Old Congress," Vol. II. p. 11.

of St. Lawrence. St. John's, (now Prince Edward's Island) and Anticosti, lie altogether within that gulf.

River St. John, excepted under the Treaties from the Atlantic Rivers.

Having now discussed the question respecting the Bay of Fundy, as contradistinguished from the Atlantic Ocean, and having shewn that neither according to the letter of the Treaty of 1783, nor according to generally received geographical practice, can it be taken as comprehended in that ocean, we proceed to treat the other question closely allied to it, namely, "whether the River St. John, which falls into the Bay of Fundy, is intended by the Treaties to be included in that class of rivers which are therein described as falling into the Atlantic Ocean."

That it was not *originally*, and therefore is not *now* so intended, we shall endeavor to shew as well by the *rationale* of the case, as by the clearest evidence, documentary and other, furnished by the United States themselves, of the intentions of the framers of the Treaty of 1783, both before, and at, the period of the negotiations which terminated in that Treaty.

It has been seen that, by that Treaty, the River St. Croix, which is described as having its mouth in the Bay of Fundy, is expressly assigned as the *extreme eastern* limit of the United States. In the meridian of the source of this river is placed the point of departure for the whole line of Boundary, which is to be thence traced *westward*, that point of departure being the point designated in the Treaties as the north-west angle of Nova Scotia.

It was evidently determined, in this very important part of the Boundary, to divide from each other, *at their sources*, the several great rivers assigned to each power. Such intent the expression "*highlands which divide*" plainly denotes; for what could be the object of selecting highlands at all in reference to rivers, if those rivers were to be divided by the Line of Boundary, indiscriminately, either at their sources, or in any part of their course?

Throughout the discussions relating to the limits of the United States in this quarter, both parties clearly directed their attention principally to *rivers*, and, moreover, to rivers in their *whole* extent. This appears distinctly from the proceedings of the Old Congress, and from the accounts of the negotiations in 1782, hereinafter recited.

Now the St. Croix being the *extreme eastern* limit of the United States, the only rivers which could have been intended to have been thus divided, were surely those which empty themselves *between* the meridians of the St. Croix eastward, and of the head of Connecticut River westward, thus securing to the United States the *whole* of each river emptying *within their own territory*, and to Great Britain the whole of each river emptying *within her territory*.

The Preamble to the Preliminary Treaty of 1782 says, that the provisions of that Treaty are founded on the basis of "*reciprocal advantages*" and "*mutual convenience*"—on the principles of "*liberal equity and reciprocity*,"—with the express design of "*excluding partial advantages, (those seeds of discord);*" and the introduction to the very article respecting Boundaries declares, in equally express terms, that those Boundaries are adjusted "*with a view to prevent future disputes.*"

Is it credible that, in the very face of these earnest declarations, the framers of the Treaty should have adopted a Line of Boundary, which, in the first place, while it did really secure to the United States the *whole* of each river emptying within *their* territory, would deprive Great Britain of a full half of one, and a portion of another, of the largest rivers emptying within *her's*? and, on the other hand, would give to Great Britain the lower

River St. John,
excepted under
the Treaty
from the Atlantic
Rivers.

half and entire command of the navigation of the largest river in the whole Country, (the St. John) by which alone the whole timber and produce of the territory on the upper half of the same river could be conveyed to the sea, while that upper half was left to the United States?

Such an arrangement would have contained neither *reciprocity* nor *liberal equity*, neither *reciprocal advantage* nor *mutual convenience* in itself, nor would it have tended to *prevent disputes*; it would, on the contrary, have tended to create a constant source of discord and contention between both parties, which could have been terminated only by one or the other obtaining possession of the whole river so obstructed and mutilated.

We do not dwell on an anomaly which attends the line destined to divide the St. John, if an *Atlantic River*, from the St. Lawrence Rivers; namely, *that that line would be absolutely obliged to cross the St. John in the middle of its course, in order to arrive at its source, for the purpose of dividing it from the rivers flowing into the St. Lawrence.* We will merely observe, that neither in the Treaty itself, nor in any account extant of the negotiations which led to it, is any mention made of such intersection; a silence, if not fatal, at least very adverse, to the supposition of the intention. Had it been intended that the line of Boundary should cross so marked, and, as it will presently appear, so well known, a feature of the country as the River St. John, there can be no doubt that such a peculiarity would have been *specifically* adverted to.

It is obvious that all the arguments derived from geographical practice and from locality, which have been employed to uphold the claim of Great Britain to exemption for the Bay of Fundy and the River St. John from the conditions of the Treaty, must apply with still greater force to the Bay of Chaleurs and the River Restigouche; first, because that Bay does not even open directly into the Atlantic, but into a second bay, namely, the Gulf of St. Lawrence; and, secondly, because both the bay and the river are still further removed from the extreme eastern limit of the United States. We, therefore, abstain from here alluding more at large to that bay and river.

We now proceed to show, by irrefragible evidence, that both before and at the period of the negotiations in 1782, the authors and conductors of those negotiations, especially the Americans, never had a thought of including the River St. John amongst those rivers which are designated in the Treaty as falling into the Atlantic Ocean.

In a work annexed to this statement, entitled, "The Secret Journals of the Acts and Proceedings of Congress," published in the United States in 1821, under the authority of Congress, a full account is given of the proceedings of the American Congress relative to the negotiations which preceded and introduced the preliminary articles of 1782, subsequently embodied in the definitive Treaty of 1783. This account throws great light on that most important transaction.

Amongst the documents most worthy of attention contained in that work, are the original instructions given by Congress to their Commissioner appointed to conduct the negotiations, which instructions include the first draft of the Article respecting Boundaries, as adopted in Congress after long and anxious deliberation.

We here insert such extracts from those instructions as more immediately relate to the specific point now under discussion.

"August 14, 1779.

"Congress proceeded in the consideration of the Instructions to the Minister to be appointed for negotiating a Peace, and *unanimously* agreed to the following draft

" of Instructions to the Commissioner to be appointed to negotiate a Treaty of Peace
" with Great Britain.

River St. John,
excepted under
the Treaties
from the Atlantic
Rivers.

"SIR,

" You will herewith receive a commission, giving you full power to negotiate a
" Treaty of Peace with Great Britain, in doing which, you will conform to the following
" information and instructions."

Appendix, p. 39.

After reciting the first and second articles of the instructions, the third is as follows:—

" 3d. The Boundaries of these States are as follows, viz:—

" These States are Bounded *north, by a line to be drawn from the north-west angle
" of Nova Scotia along the highlands which divide those rivers which empty themselves into
" the River St. Lawrence, from those which fall into the Atlantick Ocean, to the north-west-
" ernmost head of Connecticut River*; thence down along the middle of that river to the 45th
" degree of north latitude; thence due west in latitude 45° north from the equator, to the
" north-westernmost side of the River St. Lawrence or Cadaraqui; thence straight to the
" south end of Nepissing; and thence straight to the source of the River Mississippi: *west
" by a line to be drawn along the middle of the River Mississippi from its source, to where
" the said line shall intersect the thirty-first degree of north latitude; south, by a line to be
" drawn due east from the termination of the line last mentioned in the latitude of 31° north
" from the equator, to the middle of the River Apalachicola, or Catahouchi; thence along
" the middle thereof to its junction with the Flint River; thence straight to the head of St.
" Mary's River; and thence down along the middle of St. Mary's River to the Atlantick Ocean:*
" and *east by a line to be drawn along the middle of St. John's River, from its source to its
" mouth in the Bay of Fundy, comprehending all islands within twenty leagues of any part of
" the shores of the United States, and lying between lines to be drawn due east from the
" points where the aforesaid Boundaries between Nova Scotia on the one part, and East
" Florida on the other part, shall respectively touch the Bay of Fundy AND the Atlantic
" Ocean. * * * **

" But, notwithstanding the clear right of these States, and the importance of the
" object, yet they are so much influenced by the dictates of religion and humanity, and so
" desirous of complying with the earnest request of their Allies, that if the line to be drawn
" from the mouth of the Lake Nepissing to the head of the Mississippi *cannot be obtained*
" without continuing the war for that purpose, you are hereby empowered to agree to some
" other line between that point and the River Mississippi; provided the same shall in no
" part thereof be to the southward of latitude 45° north.

" And in like manner, if the eastern Boundary above described *cannot be obtained*,
" you are hereby empowered to agree, that the same shall be afterwards adjusted by Com-
" missioners to be duly appointed for that purpose, according to such line as shall be by
" them settled and agreed on, as the Boundary between that part of the State of Massachu-
" setts Bay, formerly called the Province of Maine, and the Colony of Nova Scotia, agree-
" ably to their respective rights."

Subsequently, in the year 1782, after the negotiations had been actually opened, the
American Congress again took these matters into their serious consideration, and concurred
in a report made to them by a Committee of their House, appointed to investigate the subject
of Boundaries with reference to the above cited instructions.

Of that report, which may be seen at length in the above mentioned " Secret Jour-
nals of the Old Congress," we cite the following extracts :

River St. John,
excepted under
the Treaties
from the Atlantic
Rivers.

The Committee reported "That they had collected facts and observations which they recommend to be referred to the Secretary for Foreign Affairs, to be by him digested, completed, and transmitted to the Ministers Plenipotentiary for negotiating a peace, for their information and use. * * *

Appendix, p. 40. "With respect to the Boundaries of the States, * * * * *
" *Massachusetts claims under the charter granted by William and Mary on the 17th October, 1691. * * * * **

Appendix, p. 41. "It is incumbent on us to shew that the territorial rights of the thirteen United States, while in the character of British Colonies, were the same with those defined in the instructions given to Mr. J. Adams on the day of August, 1779. * * * * *
"So fair are our pretensions rendered by the united operation of the grants, charters, Royal commissions, and Indian cessions, * * * that we shall content ourselves with reviewing the objections which will most probably be urged against them, without entering into the direct proofs of our titles.

"*First Objection.* Even upon the supposition that the charter of Massachusetts is valid so as to cover the vacant lands, still it does not follow that St. John's River is part of its eastern Boundary; for that river is contended to be in Nova Scotia, under the expression of the New Charter of Massachusetts in 1691, which conveys the country between the Province of Maine and Nova Scotia. The south-west Boundary of Nova Scotia, therefore, will regulate this claim. But it is well known that in the altercation between France and Great Britain upon this very subject in 1751, Acadia or Nova Scotia was asserted by the latter to be bounded by Pentagoet or Penobscot River.

Answer. "It is to be observed, that when the Boundaries of the United States were declared to be an ultimatum, it was not thought advisable to continue the war merely to obtain territory as far as St. John's River; but that the dividing line of Massachusetts and Nova Scotia was to be consigned to future settlement. It must be confessed, also, that this country, which is said in the New Charter to border on Nova Scotia and the Province of Maine, on opposite sides, and which goes under the name of Sagadahock, cannot be proved to extend to the River St. John as clearly as to that of St. Croix. But there is some reason, notwithstanding, to believe, that Nova Scotia was never supposed by the British King, in any grant to his subjects, to come to the south of St. John's River, although he might have acted from France a relinquishment of the lands to the River Penobscot, or even Kennebec, as part of Nova Scotia."

The Committee, after further reasoning upon the supposed Boundaries laid down in various old charters affecting that country, in which reasoning the frequent recurrence of the terms "suppose and appear" plainly indicate that they were completely in the dark on a subject so perfectly vague and uncertain, conclude this part of their report by saying :

Appendix, p. 42. "We are obliged to urge probabilities, because, in the early possession of a rough unclaimed country, accuracy of lines cannot be much attended to. But we wish that the north-eastern Boundary of Massachusetts may be left to future discussion, when other evidences may be obtained, which the war has removed from us."

It must be remarked, that, at the period of this report, all the old charters, grants, and delimitations of provinces, were published and perfectly well known: yet, having all those documents within their reach, the report above recorded was made, and the instructions of 1779 confirmed by the Congress, and acted upon by the American Plenipotentiaries.

Now from the whole body of the above-recited documents, we collect the following important particulars :

River St. John, excepted under the Treaties from the Atlantic Rivers.

1st. That the mouth of the St. John River was, from the first, specifically described as being in the *Bay of Fundy*, while the *Bay of Fundy* was described as distinct from the *Atlantic Ocean*.

2dly. That the north-west angle of Nova Scotia was, after all the consideration which the subject had undergone in Congress from 1779 to 1782, placed deliberately at that time, by the Americans themselves, at the source of the River St. John. For the Boundary of the United States is in that projet described as commencing *north* by the north-west angle of Nova Scotia, and thence running *westward*; *east*, by the River St. John from its source to its mouth. But there is no mention made of any connecting line *between* the point of commencement of the northern, and that of the eastern line; therefore they must be taken as identical.

3dly. We collect that such being the assumed position of the north-west angle of Nova Scotia, the highlands intended to divide the rivers falling into the Atlantic Ocean from those falling into the River St. Lawrence, are described in the *very same* terms which they now retain in the definitive Treaty of 1783.

Hence we deduce, that the highlands designated in the projet being *then* intended to divide the Androscoggin, Kennebec, and Penobscot Rivers *alone*, from those falling into the St. Lawrence, *to the exclusion of the St John*, the highlands so described are *still* intended to divide the same rivers; and that from those rivers, therefore, the St. John is *still* intended to be excepted.

The position assumed by the United States for the north-west angle of Nova Scotia, it is true, was, as we shall presently see, abandoned by them in the course of the negotiations, and another assumed further east; but the phraseology respecting the highlands, as dividing certain rivers, having been preserved in its original terms, it is to be inferred that the Negotiators had the same highlands still in view, and that from first to last the River St. John was considered by them as entirely excepted from the class of rivers described as falling into the Atlantic Ocean.

The above-cited instructions were so strictly adhered to, and acted upon by the American Commissioners at Paris, that in the first projet of an article respecting Boundaries, submitted by them to the British Negotiator, scarcely any deviation was made from the projet which has been already described as transmitted with those instructions to the American Commissioners.

In the body of the article so submitted, the eastern Boundary, from the source of the St. John to its mouth, was still retained; but a note was appended to that article by the American Plenipotentiary, in which, conformably to the contingent instruction above quoted, it was proposed that the whole eastern Boundary should be referred to the decision of Commissioners to be appointed subsequently to the signature of the Treaty. This circumstance seems to prove, that what is termed in the Treaties the north-west angle of Nova Scotia, as well as the limits of Massachusetts Bay, were by the Americans themselves considered as subjects totally unmanageable from their hopeless obscurity and uncertainty.

The article thus drawn up was referred by the British Plenipotentiary at Paris to his Government, who were so dissatisfied with the proposition, that they sent out to Paris one of the under Secretaries of State, for the express purpose of combating it.

In confirmation of the preceding assertions, we again refer to American documents.

River St. John,
excepted under
the Treaties
from the Atlantic
Rivers.

In a work, entitled "*The Private Correspondence of Dr. Franklin*," we find the following authentic account, in brief, of what occurred during this important period of the negotiations in 1782. We transcribe the extracts *in extenso*, since they are too important and conclusive to allow the omission of any part of them.

1. Extract of a letter from Dr. Franklin to the Honble. Robert Livingston, dated Passy, 14th October, 1782.

"We have now made several preliminary propositions, which the English Minister, Mr. Oswald, has approved and sent to his Court. He thinks they will be approved there, *but I have some doubts*. In a few days, however, the answer expected will determine. By the first of these articles the King of Great Britain renounces for himself and successors all claim and pretension to dominion or territory, within the thirteen United States; *and the Boundaries are described as in our instructions, except that the line between Nova Scotia and New England is to be settled by Commissioners after the Peace.*"

2. Extract of a letter from Dr. Franklin to the Honble. R. Livingston, dated Passy, December 5, 1782.

"You desire to be very particularly acquainted with every step which tends to a negotiation. I am therefore encouraged to send you the first part of the journal, which accidents and a long severe illness interrupted, but which, from notes I have by me, may be continued if I thought proper. In its present state it is hardly fit for the inspection of Congress, certainly not for public view; I confide it, therefore, to your prudence.

"The arrival of Mr. Jay, Mr. Adams, and Mr. Laurens, relieved me from much anxiety, which must have continued, if I had been left to finish the Treaty alone; and it has given me the more satisfaction, as I am sure the business has profited by their assistance.

"Much of the summer had been taken up in objecting against the Powers given by Great Britain; and in removing those objections, in (Q. *the ?*) using any expressions that might imply an acknowledgment of our independence, seemed at first industriously to be avowed. (Q. *avoided ?*) But our refusing otherwise to treat, at length induced them to get over that difficulty; *and then we came to the point of making propositions*. Those made by Mr. Jay and me, before the arrival of the other gentlemen, you will find in the enclosed paper, No. 1, which was sent by the British Plenipotentiaries to London for the King's consideration. After some weeks an Under Secretary, Mr. Strachey arrived, with whom we had much contestation about the Boundaries, and other articles which he proposed; we settled some, which he carried to London, and returned with the propositions, some adopted, others omitted or altered, and new ones added, which you will see, paper No. 2. *We spent many days in disputing*, and at length agreed on and signed the preliminaries, which you will receive by this conveyance."

Paper No. 1, above referred to.

"Articles agreed upon by and between Richard Oswald, Esq. the Commissioner of his Britannic Majesty, for treating of Peace with the Commissioners of the United States of America, on behalf of His said Majesty, on the one part, and Benjamin Franklin and John Jay, two of the Commissioners of the said States for treating of peace with the Commissioners of His said Majesty, on their behalf, on the other part.

“Whereas reciprocal advantages and mutual convenience are found, by experience, River St. John, excepted under the Treaties from the Atlantic Rivers. to form the only permanent foundation of peace and friendship between States, it is agreed to frame the articles of the proposed Treaty on such principles of liberal equity and reciprocity, as that partial advantages (those seeds of discord) being excluded, such a beneficial and satisfactory intercourse between the two countries may be established, as to promise and secure to both the blessings of perpetual peace and harmony.

1st. “His Britannic Majesty acknowledges the said United States, viz., New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, to be free, sovereign, and independent States; that he treats with them as such; and for Himself, His Heirs and Successors, relinquishes all claims to the government, propriety, and territorial rights of the same, and every part thereof; and that all disputes which might arise in future on the subject of the Boundaries of the said United States, may be prevented, it is hereby agreed and declared that the following are, and shall remain to be, their Boundaries, viz :

“The said States are bounded north by a line to be drawn from the north-west angle of Nova Scotia along the highlands, which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic, to the north-westernmost head of Connecticut River; thence down along the middle of that river to the forty-fifth degree of north latitude, and thence due west in the latitude forty-five degrees north from the Equator, to the north-westernmost side of the River St. Lawrence, or Cataraguy; thence straight to the Lake Nipissing, and thence straight to the source of the River Mississippi: west, by a line to be drawn along the middle of the River Mississippi, to where the said line shall intersect the thirty-first degree of north latitude: south, by a line to be drawn due east from the termination of the line last mentioned, in the latitude of thirty-one degrees north of the Equator, to the middle of the River Apalachicola, or Catahouche; thence along the middle thereof to its junction with the Flint River; thence straight to the head of St. Mary’s River; thence down along the middle of St. Mary’s River to the Atlantic Ocean; and east, by a line to be drawn along the middle of the St. John’s River from its source to its mouth in the Bay of Fundy; comprehending all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid Boundaries, between Nova Scotia on the one part, and East Florida on the other, shall respectively touch the Bay of Fundy AND the Atlantic Ocean.”

“Paris, 8th October, 1782.

“A true copy of which has been agreed on between the American Commissioners and me, to be submitted to his Majesty’s consideration.

“(Signed,) R. OSWALD.”

“Alteration to be made in the Treaty, respecting the Boundaries of Nova Scotia, viz :

“East, the true line between which and the United States shall be settled by Commissioners, as soon as conveniently may be after the war.”

3. Extract of a letter from Dr. Franklin to the Honble. R. Livingston, Secretary for Foreign Affairs, dated Passy, 14th Decr. 1782.

River St. John,
excepted under
the Treaties
from the Atlantic
Rivers.

SIR,

"We have the honor to congratulate Congress on the signature of the preliminaries of a Peace between the Court of Great Britain and the United States of America, to be inserted in a Definitive Treaty so soon as the terms between the Crowns of France and Great Britain shall be agreed on. A copy of the articles is here enclosed."—(N. B.—The second article is there described such as it now stands in the Treaty of 1783.)

"Remarks on Article II. relative to the Boundaries:

"The Court of Great Britain insisted on retaining all the territories comprehended within the Province of Quebec, by the Act of Parliament respecting it. They contended that *Nova Scotia should extend to the River Kennebec.*"

Here, then, we learn that the projet of the Article above cited respecting boundaries, having been referred to the British Ministry, remained in London *some weeks* under the consideration of that Government; that neither the scheme of settlement contained in the *body* of the article, nor that referred to in the *note* appended to the article, were agreed to by the British Government; that is, that neither the one nor the other "*could be obtained*;" that on the return of the projet from London "*there was much contestation about boundaries*;" that some were settled and carried back once more to London by the under Secretary of State, who returned after a time to Paris with the propositions, some adopted, others omitted or altered, and new ones added.* We further learn, that during these disputes, Great Britain "*insisted on retaining all the territories comprehended within the Province of Quebec by the Act of Parliament of 1774,*" and that "*she contended that Nova Scotia should extend to the River Kennebec.*" After all this persevering contention, the Preliminary Articles of 1782 at length came out, displaying the provisions respecting boundaries such as they now stand in the Definitive Treaty of 1783. The evidence of Mr. Adams and Mr. Jay, (co-plenipotentiaries with Dr. Franklin in negotiating the Treaty of 1782-3,) relative to the same matters, subsequently taken on oath before the Commissioners appointed under the Treaty of 1794, for ascertaining the true St. Croix, corroborates in every point the information given by Dr. Franklin, and even contains some important disclosures in addition to it.

"The British Commissioners," says Mr. Adams, "first claimed to Piscataqua River, then to Kennebec, then to Penobscot, and at length to St. Croix, as marked on Mitchell's map."

That map, Mr. Adams had declared, was the only map or plan which was used by the Commissioners at their *public* conferences.

Mr. Adams proceeds to say, "one of the American Commissioners at first proposed the River St. John, as marked on Mitchell's Map; but his colleagues observing, that as the St. Croix was the River mentioned in the charter of Massachusetts Bay, *they could not justify insisting on the St. John as an ultimatum, he agreed with them to adhere to the charter of Massachusetts Bay.*"

"The ultimate agreement," repeats Mr. Adams, in reply to another interrogatory, "was to adhere to the charter of Massachusetts Bay, and to the St. Croix River, mentioned in it, which was supposed to be delineated in Mitchell's map."

Now we have already seen in the extracts above given from the "Secret Journals,"

* The paper in which these alterations were embodied, is not annexed to Dr. Franklin's letter above cited in the work from which those extracts are taken.

what were the then generally received notions and intentions of Congress respecting the Boundaries of the thirteen United States, as *founded on their adherence to the charter of Massachusetts Bay*; and that, consistently with those notions, the line of the St. John River was proposed as *throughout its whole course*, confining the Province of Massachusetts Bay.

River St. John, excepted under the Treaty from the Atlantic Rivers.

In addition to Mr. Adams's evidence above detailed, Mr. Jay declared on oath, in the same manner, that "in the course of the negotiations, difficulties arose respecting the eastern extent of the United States. That Mitchell's map was before them, and was frequently consulted for geographical information." Further, Mr. Jay declared, "*that he doubted there having then been very clear conceptions relative to the just and precise eastern extent of Massachusetts*, for he had reason to believe, that respectable opinions in America at that time (1782) considered the River St. John as the proper eastern limit of the United States."

In recapitulation, then, the sum total of all the preceding evidence is, that the *whole* course of the River St. John was first proposed by the United States as their eastern limit; that that limit *not having been obtained*, the contingent proposition authorized by the American Instructions above-cited, namely, that for the settlement of boundaries after the war, was resorted to; that *that* also failed; in fact, that the whole original project of the article respecting the eastern and northern Boundary of the United States was fundamentally changed. Hence, we can come but to *one* conclusion, and that is, *that a new and more contracted* line was substituted for the line so rejected and altered.

But it may be asserted that the new line may not necessarily have been a more contracted line than the old; but that in return for the *partial* contraction of the line at first claimed by the Americans, in the substitution of the St. Croix River *for the lower part* of the St. John, Great Britain may have agreed to give up to the United States all the lands to the north of the St. John to which they now lay claim.

This would be equivalent to saying, that Great Britain, having vehemently contested the *whole* Line of Boundary proposed by the United States, from the source to the mouth of the St. John, and having moreover herself gradually receded from her original claims to the Piscataqua, Kennebec, and Penobscot, gave up to the United States as an appropriate result of that contest, and those concessions, the entire upper half of that great and important river, together with 700 square miles* of territory to the north of it, beyond the utmost extent of territory demanded in the first instance by the United States to the south of that river, and negatived by Great Britain; and, as if this was but an insufficient equivalent, that she consented to place the United States in entire possession of the only practicable line of communication between her two Provinces of Canada and Nova Scotia: and all this in the face of the preamble contained in the very Treaty by which these arrangements are sanctioned, which preamble, as we have seen, expressly declares that these arrangements are made *in order to prevent future disputes*.

Appendix, No. 9, p. 47.

Such an assertion would carry its own refutation. Besides, not a word of evidence can be adduced in support of it. For in the whole of the evidence above-cited, we have seen that no claim was *ever*, from first to last, advanced on the part of the United States, either in virtue of their adherence to the Charter of Massachusetts Bay, or on any other ground, to any territory to the *north of the St. John*. And from the account above given

* Calculation by Dr. Tiarks of the comparative loss which would accrue to Great Britain by the adoption of the Line of Boundary *now* claimed by the United States, in lieu of that *originally* proposed by them in 1782.

River St. John, excepted under the Treaty from the Atlantic Rivers.

of the proceedings relative to the Treaty, as well in, as out of Congress, it is clearly deducible, that not a thought was ever seriously entertained, on the part of the United States, of claiming such extension of Boundary.

Every thing that we have seen, relative to the Negotiations in 1782, tends, in fact, to one irresistible conclusion, which is, that the United States, in the first instance, laid claim to a Boundary which they afterwards found that they could not support; and as Great Britain positively refused to accede to it, they were compelled to *contract* it to a line within that originally claimed; namely, to the St. Croix, on the extreme east; and westward, along a continuation of the same highlands which, in the original project, were taken to divide the Kennebec and the Penobscot from the rivers falling into the St. Lawrence.

In reference then to the two essential points which we have above discussed, namely, whether the Bay of Fundy is contra-distinguished under the Treaty from the Atlantic Ocean; and whether the River St. John is excepted from that class of Rivers which are described in the Treaty as falling into the Atlantic Ocean, we conceive ourselves to have conclusively established both these facts in the affirmative; and to have demonstrated that it was the intention of the parties to the Treaty of 1783 that the point which is designated in that Treaty as the north-west angle of Nova Scotia, should be found on highlands to the south of the river St. John. Such is the position of the Highlands and the point of departure claimed on the part of Great Britain. Having now, therefore, as we believe, shewn, *affirmatively*, that the highlands now claimed by Great Britain as the Boundary Line of the United States, are really those intended by the Treaty of 1783, we shall endeavor, by arguments and evidence equally conclusive, to demonstrate, *negatively*, that the line of Boundary claimed by the United States, cannot, even on their own shewing, and treating the question by their own arguments, be along the highlands intended by that Treaty.

We have seen, by the evidence adduced respecting the proceedings in the American Congress, as well as by the testimony of the American Commissioners, that the *only* ground of claim *originally* advanced by the United States to territory on and about the River St. John, was in virtue of the rights which *they* held to accrue to them under the Charter of Massachusetts Bay.* No extension of territory in that quarter *beyond* the limits of that

* Two very singular assertions on the subject of the claim of the United States to the territory in question, in reference to the Charter of Massachusetts Bay, have been made by a very high authority, being no less a person than Mr. Gallatin, one of the Plenipotentiaries of the United States for negotiating the Treaty of Ghent, in a letter addressed by him from Ghent to the American Secretary of State, immediately subsequent to the signature of that Treaty.

In that letter, of which a fuller extract will be found in the Appendix, No. 12, p. 171, there is this remarkable clause:

"That northern Territory is of no importance to us, and belongs to the United States, and not to Massachusetts, which has not the shadow of a claim to any land north of 45 degrees to the eastward of Penobscot River, as you may easily convince yourself of by recurring to her Charters."

The singularity of one of the assertions contained in this clause consists in the supposition on which it is founded, that the United States have a claim to the district in question by some title, separate from that conferred by the Charter of Massachusetts Bay, which a reference to the Secret Journals of the Old Congress already cited by us, proves most conclusively that they never asserted.

The singularity of the other assertion as coming from this quarter, consists in the denial to Massachusetts of any right on her part to that district. In the justice of that denial Great Britain most fully concurs; but she affirms that if it is admitted as valid with respect to Massachusetts, it must necessarily equally embrace the United States in general, since in all the discussions anterior to the conclusion of the Treaty of 1783, relative to the territory in question, they uniformly professed to adhere to the Charter of Massachusetts Bay.

It will be observed that in the preceding extract one of the most distinguished Statesmen in the United States expresses his deliberate opinion that the northern Territory, that is, precisely the district now in dispute, "is of no importance to the United States."

province was pretended to by them. The ultimate agreement of the American Commissioners, was "to adhere to the Charter of Massachusetts Bay." We have seen that their conception of the limits of that province never extended *beyond* the River St. John.

The United States *now* lay claim to territory far to the north of that river. The *ground* of this claim, however, must *necessarily* be still the same as in 1783, since the provisions of the Treaty of 1783, signed by the American Commissioners under their *ultimate agreement* above mentioned, form the sole basis of the present reference to arbitration. We shall, however, shew by documentary evidence of the most positive nature, that the limits of the Province of Massachusetts Bay never did, and never could, extend to the line now claimed by the United States.

In the British separate transcript (A a) of the map annexed to the convention under the denomination of the map A, there will be perceived, marked in green, a tract of country situated on the Madawaska River, and the Lake Temisquata, at a short distance from the River St. John. That district, laid down according to the most accurate measurement founded on the documentary authority hereinafter specified and annexed, represents a portion of territory denominated "*the Fief of Madawaska*," which was originally granted in the year 1683, (that is, *eight years prior* to the Charter of Massachusetts Bay,) to a French subject by the Governor of Canada, which was then a French province.

That province remained subject to France from that period down to the year 1763, at which time the whole of the French possessions in that part of North America were definitively ceded by Treaty to Great Britain. During that entire period, however, and down to the present day, the Fief of Madawaska, in spite of all transfers, whether of the Province generally from nation to nation, or of itself individually from hand to hand, has preserved its individuality *under the original grant*, and has constantly been, and is at this moment, subject to the jurisdiction of *Canada*.

In proof of the accuracy of this assertion, we refer to the annexed papers, numbered from 13 to 25, inclusive.

Appendix No. 13 to 25, inclusive, p. 172 to p. 215.

The first of these papers, marked 13, contains the original grant of that territory in 1683. The others display the successive deeds of transfer and acts of jurisdiction exercised over it in Canada, from that period to the year 1802; since which time the fief has remained in possession of the same owner.

Herc, therefore, exists an extensive Possession incontestably *Canadian*, held by virtue of the rights derived to Great Britain, from the cession to her of Canada by France, *far within* the Line of Boundary claimed by the United States, as *having formed part of the Province of Massachusetts Bay*.

Now, on what possible ground can the United States, who, in preferring their claim in 1782 to territory in this quarter, professed to adhere to the Charter of Massachusetts Bay, now lay claim to Territory which was granted to a French subject by a French Governor of Canada, *before the existence of the Charter of Massachusetts Bay*, and which has *always* formed an integral portion of Canada, whether held by France or Great Britain?

But not only does this interposition of territory, *unquestionably Canadian*, invalidate the claim of the United States, as founded on the Charter of Massachusetts Bay, but it also, when considered under another point of view, totally breaks down their argument respecting the line of highlands claimed by them; for it disables those highlands from fulfilling the distinctive condition required of them by the Treaty of 1783, namely, that they shall divide the rivers falling into the St. Lawrence from those which fall into the Atlantic Ocean. Amongst these latter we have seen that the *United States* include the River St. John

Fief of Madawaska.

On consulting again the British transcript of the map A, it will be seen that the Fief of Madawaska extends from near the sources of the River Madawaska to within a few miles of the River St. John, of which it is the principal tributary in that quarter.

We conceive that it will hardly be pretended, that the Seignior of Madawaska could have been considered, at the period of the original grant, as an insulated portion of Canada, totally disunited from that Province. We therefore assume that the Province of Canada extended, at the period of the original grant of the Fief of Madawaska, *uninterruptedly*, from beyond the Line of Boundary now claimed by the United States, along the Madawaska River, to the entire extent of that Seignior. But assuming this to be the case, it is manifest that the American Line must, at the point towards the source of the Madawaska, experience an absolute chasm,—a complete interception,—by the interposition of that portion of Canada.

But how would such a line fulfil the conditions of the Treaty? It would certainly, in that case, neither run along highlands, nor would it divide rivers falling into the St. Lawrence from rivers falling into the Atlantic; since the upper part of the Madawaska would undoubtedly be on the same side of the line with all the rivers which fall into the St. Lawrence.

But without entering into arguments which might be derived from other sources, to shew what the *general* Boundary Line of Canada was, we may fairly assert, that the simple fact of the Fief of Madawaska having been originally granted and invariably held under the jurisdiction of Canada, whether French or English, goes far to warrant the conclusion that the *whole tract of Country* in which that Fief lies, was always considered and treated by the Authorities of Canada as an integral portion of that Province.

Canadian jurisdiction in disputed Territory.

Upon such assumption or assertion alone, however, whatever may be its justice or strength, we do not propose to rest our argument. That the Country has been so considered and treated is demonstrable from documentary evidence of an equally conclusive character with that already adduced on behalf of the Fief of Madawaska. To that evidence we accordingly appeal.

Appendix, No. 26, p. 223.

On the 24th of January, 1765, a public notice, hereunto annexed, was issued by the Office of the Provincial Secretary in Canada, and published by authority, according to custom, in the Quebec Gazette, by which notice all *Canadian* inhabitants were prohibited from interfering with the hunting ground of the Indians *down to the Great Falls of the River St. John*.

Appendix, No. 26, p. 230, No. 27 p. 222, No. 28, p. 223.

Again, on the 11th of November, 1784, that is, but one year subsequent to the Treaty of 1783, an Indian was condemned by the Courts of Canada, and executed for a murder committed at Madawaska. The documents containing an account of this proceeding are hereto annexed.

Appendix, No. 29, p. 228.

Again, in the year 1789, proceedings were commenced in a Court at Quebec, and continued to the 20th of January, 1791, in an action for damages brought against Augustine Dubé and Pierre Duperé, residing at Madawaska, in which the defendants put in a plea against the jurisdiction of the Court of Quebec, alleging that they resided within that of New Brunswick. The plea was rejected on various grounds; amongst others, absence of proof on the part of the defendants that Madawaska was *not* within the jurisdiction of Canada; and the defendants were cast accordingly.

Again, on the 10th of November, 1791, a Sheriff's notice was published in the Quebec Gazette for the sale of lands of the said Pierre Duperé at Madawaska, apparently in execution of the judgment in the last-mentioned case. Canadian jurisdiction in disputed Territory.

Again, in 1785, the Council of Quebec took into consideration the expediency of making a road from Kamouraska on the St. Lawrence, to Lake Temisquata, along that district called the Temisquata Portage, in order, as it is stated, to obtain an easy and speedy communication between the Provinces of Canada and New Brunswick, "particularly in time of war, when an easy and speedy communication, independent of the States of America, becomes absolutely necessary; and when, in times of peace, from the inconvenience of sending Government and other Despatches by way of New York, which is every day more apparent, the American Postmaster having lately refused the Postmaster-General here (at Quebec) to allow the Couriers from this Province to pass through their territories, insisting that all letters shall go by their mails only." Appendix, No. 28, p. 223.
Appendix, No. 30, p. 231.

Again, in 1787—1792, the question of the respective Boundaries of Canada and the then newly-erected Province of New Brunswick* was brought before the Council at Quebec. The paper which contains an account of the proceedings thereupon is highly valuable and important, especially as proving that whatever disputes may have existed between the respective British Provinces as to their several limits, not the smallest doubt seems to have been ever entertained by them as to the right of Great Britain to the whole territory thus contested between the Provinces. Appendix, No. 31, p. 232.
No. 32, p. 233.

In this document it is shewn, that for several years prior to 1792 the Government of Canada had established a militia at Madawaska, and that the Courts of Quebec had exercised jurisdiction in various cases within that settlement. It will also be seen therein, that, in opposition to the claim set up at that time by New Brunswick to a Boundary north of Lake Temisquata, the Committee of the Council of Quebec contended that such Boundary would interfere with "the seigneuries under Canadian grants as far back as the years 1623 and 1683, besides the Acadians settled above the Great Falls of St. John's River." Appendix, p. 233.

The report of the Committee proceeds thus :—

"The Committee most humbly submit to your Lordship, whether it would not be for the advantage of both Governments that the Province of Quebec be separated from that of New Brunswick by a line running along the highlands which extend from the head of Chaleurs Bay to the foot of the Great Fall of St. John's River, and from thence crossing the river (so as to include the whole of the portage or carrying place) and continuing in a straight line towards the sources of the River Chaudière, which rise on the highlands that commence at the said head of the Bay of Chaleurs, and extend all the way to the north-westernmost head of Connecticut river." This opinion clearly shews what conception was at that time entertained by the Canadian authorities respecting the Boundaries of Canada and Nova Scotia. In a subsequent part of the same document, it is distinctly stated that at that time (in 1792) "the line between the two Provinces of Canada and New Brunswick had not been ascertained;" and it was then

* Subsequently to the Treaty of 1763, the British Province of Nova Scotia was divided into two separate Provinces, of which the one retained its former name; and the other, embracing the British Territory in the vicinity of the due north line, and the adjacent parts of the old Province of Nova Scotia, received the name of New Brunswick.

Canadian jurisdiction in disputed Territory.

the declared object of the Canadian Government, "to call the attention of His Majesty's Ministers to the adjustment of the limits necessary for preserving the public tranquillity of both Provinces."

Appendix No. 33, p. 245.

Again, in 1791, an official list was made out of the Parishes in the Province of Quebec, in which list the Parish of Madawaska is included, and a description given of the species of tenure by which the settlers held their land; and a census of the male population, above 19 years of age, is also thereto annexed.

The above-cited series of documents clearly establishes Canadian jurisdiction, as far as the Great Falls of the St. John, for a long period, both before and since the Treaty of 1783, and thereby further negatives the American claim to this Country, as founded on the supposed limits of Massachusetts Bay.

Appendix No. 34, p. 246.

Furthermore, there can be shewn, from *American* testimony, a *de facto* possession by Great Britain of the district, called the Madawaska Settlement, on the River St. John, beginning a few miles above the Great Falls, and extending beyond the confluence of the River Madawaska with the St. John, which possession was never called in question by the United States until the termination of the war between Great Britain and the United States, in 1814.

Madawaska Settlement.

We think it necessary, in order to prevent mistakes from the similarity of the names, to state here that the "*Madawaska Settlement*," and the "*Fief of Madawaska*," are two totally different things, and not in any way connected with each other. The former is a *modern* colony, planted subsequently to the Treaty of 1783: the latter is, as we have shewn, an hereditary seigniory, granted by the Government of Canada a century antecedent to the Treaty of 1783, and from that period to this, subject to the jurisdiction of Canada.

We prefer giving the account of the Settlement of Madawaska in the very words of the Special American Agent, who was sent by order of the American Government to inquire into its origin, history and actual condition.

"This settlement," says Mr. Barrell in his report, "derives its name from the River Madawaska, which empties itself into the River St. John, about thirty-six miles above the Great Falls, and about one hundred and sixty miles above Fredericton. The first settlers arrived soon after the Treaty of 1783, and the first grant, which was of fifty-one several lots or plantations of land, was made to Joseph Muzeroll and fifty-one other French settlers, in the month of October, 1790, by Thomas Carleton, Esq. then Lieutenant-Governor of the Province of New Brunswick. The land granted lay at intervals between the River Verte and the Madawaska River, nine miles distant from each other, and on both sides of the River St. John. The second grant was of 5,253 acres of land lying below the River Verte, and was made to Joseph Soucer and others by Lieutenant-Governor Carleton, in August, 1794. These are the only grants ever made by the British Government within the settlement, excepting one to Limo Hibert* of 250 acres of land opposite to, and upon the River Madawaska, in May, 1825.

"The laws of the Province of New Brunswick appear to have been always in force since the origin of that settlement. The settlers have acquiesced in the exercise of British authority, both civil and military, among them, and have for many years had an organized militia in the settlement. * * * * The population of Madawaska amounts to about 2,000, and is almost exclusively French."

* Simon Hebert.

In confirmation of the above statement, copies of the original grants of land in that settlement, made in 1790 and 1794, are hereto annexed. In further corroboration of the same statement, we also quote the deposition of one of the first settlers, Simon Hebert, which was taken on oath, on the occasion of the trial, before the Tribunals of New Brunswick, of one John Baker, mentioned in the report above-cited.

Madawaska Settlement.

Appendix No. 35, p. 254.
No. 36, p. 256
No. 37, p. 260.

That deposition establishes clearly the fact stated in that Report, of the settlers having, from the very commencement, considered themselves as subject to British jurisdiction. "Simon Hebert, being sworn, deposed as follows: I live two miles below Madawaska River. Have lived there forty years next month; I moved there from the French village about ten miles above Fredericton. I have a grant of my land from this Province. It is the first grant in the Madawaska, and was made about two or three years after I moved up. I live under this Government, and have always lived under it. All the Madawaska settlers live under the same Government. I vote at elections. The first time was about eight years ago."

Appendix, No. 38, p. 266.

This last-cited evidence proves an actual jurisdiction over this Territory, since the Treaty of 1783, by the British Province of New Brunswick. The claims of this Province and Canada, with respect to this and other parts of the territory in this quarter are conflicting *inter se*, and shew the uncertainty of their respective Boundaries, which in fact have never been settled, and may require the interference of the Mother Country to adjust: but these conflicting intercolonial claims, which have arisen since the Treaty of 1783, are altogether irrelevant to the present controversy between Great Britain and the United States, as a Foreign Power, and under that Treaty. Whether under the one Province or the other, the possession is British.

The right to that possession was first called in question by the United States, and that only constructively, at the period of the negotiations at Ghent in 1814.

A reference to the two annexed official decennial censuses of the United States, and, specifically, of the State of Maine, will shew that in 1810 no mention was made of the Madawaska Settlement; whereas in 1820 that Settlement was included in the general estimate of the population of the United States; it being, however, stated in this Census of 1820, that the inhabitants of this settlement "*supposed they were in Canada.*"

Appendix, No. 39, p. 277.

Under all these circumstances, Great Britain conceives herself to have a fair right to assume that this settlement and territory have been, from the earliest period, considered a part of the British Dominions.

We now believe ourselves to have demonstrated, from all the considerations and evidence above adduced, that the line claimed by the United States as their boundary, cannot possibly, *in point of position*, be the line intended by the Treaty of 1783.

We have already demonstrated, on the other hand, that the line claimed by Great Britain is in strict accordance with the intentions of the framers of the Treaty, and does in every respect, *in point of position*, fulfil the conditions imposed on it by the Treaty.

There is a separate ground, namely, that of the specific meaning and character attached to the term "highlands," on which we shall briefly consider the question before we close this part of our argument; and we propose to shew, in the first instance, that in this more contracted view of the question, as well as on the broader and higher grounds already discussed, the highlands claimed by Great Britain have a just title to be considered as fulfilling the conditions of the Treaty. We will then consider the character of the line claimed by the United States in this respect.

Highlands

Great Britain then maintains that the term *highlands* employed in the Treaty

Highlands.

implies not merely lands which divide rivers flowing in opposite directions, but *high*, i. e. *elevated*, lands, or, in other words, *a mountainous tract of country*. The United States, on the contrary, contend that the term "*highlands*" does not imply visible elevations, but simply lands, *whether high or low*, which cause waters to flow in opposite directions.

It is of course not pretended, on the part of Great Britain, that in order to support the character which she assigns to the term "*highlands*," those highlands should present an absolutely unbroken and continuous ridge, without the intervention of valley or swamp. She does, however, maintain, that the "*highlands*" ought to conform to the above-cited definition of the term, by displaying a *generally* elevated and mountainous character; and such a character she affirms that the highlands claimed by her do in reality bear.

Under this view of the intent of the term "*highlands*," as used in the Treaties, Great Britain maintains that the point called Mars Hill is, with propriety, claimed by her as the point of departure on the "*highlands*" as well on the ground of that point being the nearest real *elevation* met by the due north line drawn from the source of St. Croix River, as on the other and more essential grounds already discussed. From Mars Hill the surveys hereto annexed, which were made by Surveyors appointed for that purpose by the Commissioners under the 5th Article of the Treaty of Ghent, shew that a generally hilly country is found to extend towards the eastern branch of the River Penobscot. The accuracy of those surveys and the reports* of the Surveyors which accompany them, has been attempted to be impeached by the Agent of the United States under the 5th Article of the Treaty of Ghent, but ineffectually. It will be seen by the annexed account of certain proceedings, which took place between the British and American Commissioners in 1821, that the British Agent, at the same time that he objected to the American surveys and reports, in part, and proposed to the Board to have the Surveyors examined on oath as to the accuracy of those documents, offered voluntarily to have the British Surveyors equally examined on oath as to the accuracy of *their* surveys, which had been called in question by the American Agent. That offer was declined on the part of the Americans. A proposal previously made to the American, by the British Commissioner, to have those parts of the country, which were affirmed to be inaccurately laid down in the respective surveys, surveyed afresh, had been equally declined on the part of the United States.

Without in any way questioning the grounds on which the American Commissioner declined acceding to the two propositions above stated, which he had certainly a full right to do, we insist upon the simple fact of a proposal having been made in the strongest and clearest terms on behalf of Great Britain, that the accuracy of the British surveys should be subjected to the test of a solemn examination on oath; and from that fact we conceive ourselves to have a fair right to infer, that the statements and delineations of the British Surveyors are substantially correct; and we accordingly assume, that the country between *Mars Hill* and the head of the eastern branch of the Penobscot, answers generally to the definition of highlands, namely, "*mountainous country*" above given by us.

* Although in this statement such only of the reports made under the 5th Article of the Treaty of Ghent are specifically adduced in evidence, as Great Britain considers necessary for the support of her claim, the whole collection of those reports and surveys are nevertheless annexed hereto, in order that full and impartial means may be afforded to the arbiter to make immediate reference to any part of them, and to judge between the conflicting representations of the respective British and American Surveyors.

Appendix,
No. 10, *e.* p. 72.
" *i.* p. 88.
" *k.* p. 90.
" *m.* p. 113.
D, 2, 7, 18.

Appendix, No.
11, p. 148.

These highlands connect themselves with a mountainous tract of country, well known at the period of the formation of the Treaty of 1783, and long before, by the distinctive appellation of "The Height of Land." That height of land had been described in many public documents as dividing the waters that fall into the Atlantic Ocean, from those which fall into the River St. Lawrence to the *west* of the sources of the River St. John, and the western head of the Penobscot; that is, the same waters which we have shewn that the American Congress and Plenipotentiaries contemplated in their first proposition before cited, and must still have contemplated at the period of the signature of the Definitive Treaty, because the same designation of the dividing highlands is still preserved therein.

Appendix. No. 6, p. 33.

That the connexion above noticed exists between the western and eastern section of the *highlands* forming that "*height of land*," to the south of the River St. John, we affirm not only on the authority of the Surveyors employed under the Boundary Commission, but also on that of an American topographer of repute, Mr. Greenleaf, who published in 1816, a "Statistical View of the State of Maine," illustrated by a map of the same State, delineated by himself.

With reference to the highlands in question he says, "with the exception of a *small tract* at the eastern extremity, and *some detached* elevations along the central part of the "north-western Boundary, the mountainous part of the district may be included within an "irregular line drawn from the line of New Hampshire, not far from Saco River; thence "proceeding north-easterly, and crossing Androscoggin River near Dixfield, Sandy River "above Farmington, Kennebec River above Bingham, the west branch of the Penobscot "at the Lake Pemmidumpkok, and to the *EAST BRANCH OF THE PENOBSCOT near the mouth of the Wassattaquoik*; thence north so far as to include the heads of the Aroostook; "thence south-westerly to the head of Moose-head Lake, and thence westerly to the Boundary of the district near the sources of the Du Loup. The greatest length of this section "is *from south-west to north-east*, about 160 miles; its greatest breadth about 60 miles; and "it comprises about one-seventh part of the district. No observations have been made to "ascertain and compare the height of the different elevations in this section; but from estimates which have been made on the falls of the rivers, proceeding from different parts of "it, and from the much greater distance at which the mountains in the western part are "visible, it is evident that the western, and particularly the north-western part, is much "higher than the eastern; and the section in *its whole extent* may be considered as presenting the *highest points of land between the Atlantic and the St. Lawrence*."

The preceding description is extracted from the Report of the British Commissioner under the 5th Article of the Treaty of Ghent, who adds, "that in the map accompanying "Mr. Greenleaf's work, and which that work was intended to explain, there is not a vestige "of any highlands in that tract of Country through which the Boundary is claimed on the "part of the United States, except the Timiscouata Portage, which, it is contended on the "part of His Majesty, is proved also to be the case from the result of the exploring surveys "in that quarter. And it is here to be observed that the Agent of the United States has "not attempted to call in question the correctness of the above statement of Mr. Greenleaf."

* See copy of Greenleaf's Map, exhibiting the mountainous tract here described, in collection of Maps and Surveys D annexed. D. 31.

Highlands.

Throughout the whole extract from Greenleaf above-cited, it will be perceived that it is a question not of lands dividing rivers, but of *elevations*: and it is shewn that those *elevations* extend to the *eastern branch of the Penobscot*, which river we have demonstrated that the framers of the Treaty of 1783 clearly intended to divide from the River St. John. The surveys above referred to shew that the general character of the district between the eastern branch of the Penobscot and *Mars Hill* is mountainous. Great Britain, therefore, *on this ground*, as well as on the others already expounded, conceives herself fairly entitled to assert that Mars Hill, and the line of boundary of the United States, as claimed by her from Mars Hill to Connecticut River, answer the intent of the Treaty, in which it is declared that the point designated therein as the north-west angle of Nova Scotia shall be placed on the *highlands*, and that the line of boundary shall be traced from that point along the said *highlands* which divide the rivers which empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean.

Appendix,
No. 10, c, p. 121.
" p, p. 124.
" s, p. 133.
" e, p. 135.
D, 13, 14, 15,
19, 20, 22, 24.

With regard to the line claimed by the United States as their Boundary, a reference to the official surveys and reports made by the Surveyors appointed by the Commissioners under the 5th Article of the Treaty of Ghent will fully confirm the assertion which we here confidently make, that not one-third of that line can be shewn to run along any lands which, according to the just definition of the term, are entitled to the appellation of "*high-lands*."

By an attentive examination of those reports and surveys, we shall find that with the exception of one spot on the Temisquata Portage, no eminences like those which are found in the vicinity of the British line have been observed, from which the country and its various elevations could have been viewed; and from the only place, where highlands undoubtedly exist on the Temisquata Portage, no ranges of any extent running in the direction of the Line of Boundary claimed by the United States have been seen on either side, east or west.

Setting aside the Survey and Report* of the American Surveyor, Johnson, as, with respect to the particular country now under consideration, altogether ideal and unfounded in fact, we proceed to examine cursorily, according to descriptions better worthy of attention, the individual spots of the American line which have been visited by the Surveyors.

Appendix, No. 10,
" p. 74.

The north line, as described by the United States, terminates at a place where there are no highlands agreeing with the definition above given. It appears from Mr. Odell's report, that from the high bank of the Grand Fourche of the Restigouche the land declines gradually all the way towards Beaver Stream, and especially from the place where the line intersects the last waters of the Restigouche until its intersection with Beaver Stream. This district is therefore no better entitled to the appellation of highlands than the whole of the surrounding country.

Appendix,
No. 10, a, p. 122.
" f, p. 136.
D, 13, 15.

The next spot along the line, proceeding westerly, which has been visited, is the division of the waters of the second fork of the Lakes of Green River from those of the Rimousky. There, indeed, there are highlands; but they do not divide, but rather run parallel to the waters to be divided.

From the reports and surveys of Mr. Burnham the American, and Dr. Tiarks

* See Appendix, No. 11. p. 143, and No. 44, p. 306.

the English Surveyor, it appears that the dividing land between the waters is a swamp having all the features, the appearance, and vegetation of *low* land. Highlands,

The highlands lie in unbroken ridges parallel to both waters, running south and north, so that those waters take their opposite courses in a valley between two ridges.

The low swampy spot, in which the waters divide, is an insulated point, without any continuity or connexion with other similar spots; so that, in fact, it is impossible to divine which way the Line of Boundary ought to run from that point, since there are no highlands to direct its course as required by Treaty, and it is necessitated to find its way arbitrarily from one detached point to another, for want of such highlands.

The next spot visited by the Surveyors, is that of the division between the northern branch of Tuladi River and a branch of the same River Rimousky before mentioned. Appendix, No. 10, c, p. 12.

It appears that the features of this district were precisely the same as those at the preceding spot; and the same remarks apply therefore with equal force to this place. D, 14, 15.

This is all we know certainly, as collected from actual survey of the country along the line claimed by the United States, *east* of Temisquata Portage. Therefore in that country it cannot be affirmed that there are any highlands answering to the demand of the Treaty.

On the Temisquata Portage there are highlands between the waters of Green River and those of the River St. Francis; but those waters were never traced up to their sources, so that it is not known what appearance the country may there present.

At the next spot visited by the Surveyors, westward of Temisquata Portage, namely, the division of the waters of the River Ouelle from those of the Little St. John, we again find the same absence of dividing highlands in the *immediate* vicinity of the division of those waters. Whatever highlands are found in that quarter run parallel to the river, at some distance from the point of division. Appendix, No. 10, c, p. 130. D, 23, 24.

It does not appear that there are any eminent highlands on the line claimed by the United States near the head waters of the numerous branches of the River St. John, nor have we any description of ridges of highlands dividing any of these heads from the contiguous waters of the Rivers emptying into the St. Lawrence.

The Surveyors ascended several of these branches; and it does not appear that any highlands, really entitled to that designation, were any where observed.

No other spot further westward in the line claimed by the United States was visited by the Surveyors, except the point where the British and American lines meet at the "*Height of Land*," heretofore treated of.

In the American transcript of the map A, as in some of the original American Surveys, a line of what appears to be mountains, is represented as extending continuously from the point which the United States claim to be the north-west angle of Nova Scotia, to that point near the source of the St. John where the British and American lines meet. If the line so delineated is intended to represent real elevations, we must affirm that representation to be altogether unsupported by evidence, as a reference to the aforesaid surveys and reports will abundantly prove. If, on the other hand, those highlands are intended merely to represent lands which divide, here and there, waters flowing in opposite directions, we repeat our appeal to the true meaning of the term "*highlands*." Appendix, No. 11, p. 148, and No. 44, p. 306.

It has now been shewn, on the part of Great Britain, and in support of her claim, in reference to the first branch of difference between her and the United States, relative to the point designated in the Treaties as the north-west angle of Nova Scotia Summary of Arguments

1st, That the Bay of Fundy, as mentioned in the Treaty of 1783, is intended to be separate and distinct from the Atlantic Ocean ; and that the River St. John, which falls into the Bay of Fundy, is intended, on that as well as on separate grounds, to be excepted from that class of rivers which are described in the Treaty as falling into the Atlantic Ocean ; consequently, that the highlands described in the Treaty *must* lie to the southward of that river.

2dly, It has been shewn that *at the period of the negotiations in 1782*, the only ground assumed on the part of the United States for their claims to territory in the quarter now contested was that of the limits of the Province of Massachusetts Bay ; that the *utmost claim so founded extended only to the line of the River St. John* ; and that in the course of the negotiations that line was materially contracted, under which contraction the Treaty of 1783 was concluded.

3dly, It has been shewn that *far within* the line of boundary now claimed by the United States, *necessarily* on the same ground of having formed part of the Province of Massachusetts Bay, Great Britain holds an extensive hereditary Seignior, indisputably *Canadian*, as having been granted by the Government of Canada, and having continued *uninterruptedly* subject to the jurisdiction of Canada from the year 1683 to the present day.

4thly, It has been shewn that Great Britain constantly exercised *an actual and unquestioned* jurisdiction in the country now claimed by the United States from the period of the Peace of 1783 to that of 1814 ; and held during that period *uncontested de facto* possession of other parts of that country besides the hereditary Seignior above mentioned.

5thly, It has been shewn that the highlands claimed on the part of Great Britain *as* those designated in the Treaty of 1783 conform, in every particular, to the conditions imposed on them by that Treaty ; and, on the other hand, that the highlands claimed on the part of the United States conform neither in position nor character to those conditions.

On all these grounds, Great Britain claims that the point designated in the Treaty of 1783, as the north-west angle of Nova Scotia, be established at or near the elevation above referred to, called *Mars Hill* ; and that from that point the line of boundary of the United States be traced south of the River St. John to the north-westernmost head of Connecticut River, at the heads of the Rivers Penobscot, Kennebec, and Androscoggin ; which rivers Great Britain maintains to be those intended by the Treaty as the rivers falling into the Atlantic Ocean, which are to be divided from those which empty themselves into the River St. Lawrence ; such, or nearly such, as that line is described on the official map, denominated the map A, which is annexed to the Convention of the 29th of September, 1827.

SECOND BRANCH OF DIFFERENCE RESPECTING THE NORTH-WESTERNMOST HEAD OF CONNECTICUT RIVER.

We now turn to the consideration of the second branch of difference between Great Britain and the United States, as above-stated, namely, the designation of the true north-westernmost head of Connecticut River, as intended by the Treaties of 1783 and 1814.

North-westernmost Head of Connecticut River.

In reference to this point Great Britain maintains, that the north-westernmost head, intended by the Treaty, must be that head of the River Connecticut, which, of all the heads of all its waters *above the highest point, where it assumes the distinguishing title of Connecticut, or main Connecticut*, shall be found to lie in the most north-westerly direction relative to the main river.

Towards the upper part of the River Connecticut, several waters flow into it from various quarters. Of these, two, namely, *Hall's Stream* and *Indian Stream*, both coming from the north-west, join the main river a little above the true parallel of 45° N. lat., which is the extreme southern point of the Boundary of the British possessions assigned by the Treaties on that river.

The main River Connecticut, however, retains its name and comparative volume far above the junction of these two streams with it; as far indeed as a lake of some magnitude, denominated *Connecticut Lake*, which is succeeded, still higher up, by other lakes of smaller dimensions. The river which issues from *Connecticut Lake*, now bears, and always has been known by, the sole appellation of Connecticut River.

Great Britain therefore claims the spring head of the most north-western water, which finds its way into Connecticut Lake, as the "north-westernmost head of Connecticut River," intended by the Treaty of 1783, from whence the Boundary is to be traced down along the middle of that river to the 45th degree of N. latitude.

Great Britain maintains, that no stream which joins the Connecticut River *below* any point where the river is known by that distinctive appellation, can, with any propriety, or consistently with geographical practice, be assumed to be *the* River Connecticut; nor, consequently, can the head of such stream be taken as a head of the river itself, being merely the head of a subordinate branch of the river, which branch is known under a separate denomination.

If "*Hall's Stream*" or "*Indian Stream*" are, either of them, to be assumed as containing the true north-westernmost head of the River Connecticut, according to the definition employed in the Treaties, then, by a parity of reasoning, might the Moselle be considered as containing the south-westernmost head of the Rhine, and the Maine its most south-easterly head, and so on; for those rivers join the Rhine in the same relative manner, and are as completely the true Rhine, as the tributary waters "*Hall's Stream*" and "*Indian Stream*" join, and are the true Connecticut.

We adduce the example of the Rhine alone for simplicity's sake. But it is obvious that the same rule which applies to one river must apply to all; and if the American doctrine be admitted, instead of seeking for the northern, southern, eastern, or western, head of any given river, at the point where the highest sources of the river so *denominated* are placed by geographers, and universally admitted to be, we must look all round the compass for the particular head of such river according to the specific magnetical bearing of it, which we may be in want of.

Thus the heads of the Rhine, if designated by such magnetical bearing, must

North-western-
most head of
Connecticut
River.

be searched for in different parts of Europe, instead of in the range of the St. Gothard mountains, where they have hitherto been taken to be situated.

Yet we believe that no person will deny that in those mountains both the south-western, south-eastern, and all other *heads* of that river, are to be found. So, likewise, are the various *heads* of Connecticut River to be found in the same relative position to each other, and to the river of which they are the sources.

This point, however it may be involved in plausible argumentation, is deemed by Great Britain too evident to require further elucidation or argument.

For a confirmation of the several facts above alleged, however, with reference to the position and specific denomination of the River Connecticut and its tributaries, as well as with a view to illustrate the Line of Boundary in that quarter respectively claimed by Great Britain and the United States, we refer to the following documents hereto annexed.

1st. The Report and Survey of the British Astronomer, who was appointed by the Commissioners under the 5th Article of the Treaty of Ghent to survey the district at the extreme head of the River Connecticut.

The accuracy of that Report and Survey has been acknowledged by the Americans themselves.

2dly. The British transcript of the map A, already adduced in evidence. In that transcript, the whole tract in dispute will be found laid down exactly according to the survey above mentioned, together with the adjoining parts of the Line of Boundary.

3dly. A grant of land made in the year 1789 by the State of New Hampshire to Dartmouth College, in which the land granted is expressly described as being wholly "bounded by Connecticut River" on one side. The said land extends, however, along the river, above the mouth of Indian Stream. Therefore this document proves, by American authority, that this river is distinguished by the name of Connecticut in that part of its course, and considerably above the mouth of Hall's stream, which, as we have seen, is claimed by the United States, as containing the true north-westernmost head of Connecticut River.

To elucidate the precise position of this grant, we offer in evidence a map of New England, published in 1826, by Nathan Hale, an American citizen, in which the limits of the grant are laid down.

We must observe, however, that we adduce this map, simply in illustration of that individual point, and by no means in support of the general claim of Great Britain in that quarter; however powerfully it might, in various particulars, be found to corroborate that claim; for we hold map evidence, on either side, to be altogether incompetent to enter into the decision of any question of contested Boundary, such maps alone excepted, as have been admitted as fit to be annexed to the Convention of the 29th of September, 1827, for the purposes therein specially declared.

Before we quit this branch of difference, we think it not inexpedient to mention, that the American Commissioner and Agent under the 5th article of the Treaty of Ghent, were actually at variance, as to the precise point at which the north-westernmost head of Connecticut River ought to be established; the latter having declared for "Hall's Stream," the former for "Indian Stream." In proof of that variance, an Extract from the Report of the Commissioner of the United States is hereto annexed.

It will be seen, by inspecting the map A, that the American Government have

Appendix, No.
10, r, p. 130, and
Survey D, 12.

Map A a, annex-
ed.

Appendix, No.
10, p. 289.

Map C annexed.

Appendix, No.
11, p. 292.

adopted the views of their Agent, in preference to those of their Commissioner, by adhering to "Hall's Stream" as their Boundary now claimed.

North-westernmost Head of Connecticut River.

It may also be expedient to invite particular attention to the circumstance of the old parallel of 45° north latitude having been discovered to be erroneously laid down half a mile to the north of the true latitude on the River Connecticut.

We advert to this fact more particularly, because the *old* parallel, in its course from the west, crosses Hall's Stream *above* its junction with the Connecticut River, and strikes the latter at a spot where a land mark was placed in 1772, as evidence of the Boundary between the then British Provinces of Quebec and New York.

We shall see hereafter, in discussing the third branch of difference between Great Britain and the United States, that the United States object to the *general* rectification of the Boundary Line along the parallel of 45° north latitude from the Connecticut to the St. Lawrence.

If, however, they apply that objection to the point of departure of that parallel on the River Connecticut, yet still maintain their claim to "*Hall's Stream*," as containing the north-westernmost head of the Connecticut, it is manifest that the Line of Boundary claimed by them can *never* strike the real Connecticut at all, but must stop short at Hall's Stream; since it is only by adopting the rectified parallel of latitude, that the mouth of Hall's Stream can be made to join the Connecticut *above* that latitude. A reference to the Map A will at once elucidate this point.

On all the grounds above adduced Great Britain claims that the north-westernmost head of Connecticut River, as designated in the Treaties, be established at the source of the north-westernmost stream, which flows into the uppermost of the lakes, which are above Connecticut Lake, that point being the north-westernmost head of waters tributary to the said Connecticut Lake, up to which the Connecticut River is known by that distinctive title: and that from thence the line of boundary be traced "down along the middle of that River "to the 45th degree of North Latitude:" such as it is exhibited on the official map A.

THIRD BRANCH OF DIFFERENCE RESPECTING THE LINE OF BOUNDARY ALONG THE PARALLEL OF 45° N. LATITUDE FROM THE RIVER CONNECTICUT TO THE RIVER ST. LAWRENCE.

We now come to the third and last branch of difference respecting the Boundaries between Great Britain and the United States. That branch, as before stated, embraces the Line of Boundary along the parallel of 45° north latitude from the River Connecticut to the River St. Lawrence.

Boundary Line from the River Connecticut to the River St. Lawrence along the parallel of 45° N. latitude.

We recite here such portions of the provisions of the Treaty of 1814 as have reference to this point.

"Whereas that part of the Boundary Line between the dominions of the two Powers, which extends from the source of the River St. Croix * * * * * to the north-westernmost head of Connecticut River, thence down along the middle of that river, to the 45th degree of north latitude; thence by a line due west on said latitude, until it strikes the River Iroquois, or Cataraguy, HAS NOT YET BEEN SURVEYED * * * *. The said

Appendix, No. 2, p. 1.

Boundary Line
from the River
Connecticut to
the River St.
Lawrence along
the parallel of
45° N. latitude.

“ Commissioners * * * * shall cause the *Boundary aforesaid, from the source of the River St. Croix to the River Iroquois, or Cataraguy, to be surveyed and marked according to the said provisions.*”

The Treaty of 1783, already cited above, provides, with reference to the point now under consideration, that the line between the British and American Possessions shall be described by a line drawn from the *45th degree of north latitude on Connecticut River, due west on said latitude, until it strikes the River Iroquois or Cataraguy (St. Lawrence.)*” Of these plain and explicit stipulations Great Britain simply desires the strict and faithful execution.

As it may appear singular that upon a provision so clear and intelligible any question should have arisen, it will be necessary to explain the proceedings which have already taken place relative to this matter between the British and American Commissioners who were appointed under the 5th Article of the Treaty of Ghent to carry that provision into effect.

In the year 1818 the Commissioners under the 5th Article of the Treaty of Ghent, having already executed some portion of the general task assigned to them, in the direction of the River St. Croix, proceeded to order their respective astronomers to ascertain in concert various points of that part of the Boundary Line which is provided by Treaty to extend along the parallel of 45° north latitude, from the River Connecticut to the River St. Lawrence.

In the expediency, as well as in the mode, of executing that service, *both* the Commissioners fully concurred ; and an instruction to the astronomers was accordingly drawn up to the following effect :

“ That* on the arrival of Mr. Hassler, (the American astronomer) the astronomers of the respective Governments should proceed with the least possible delay to ascertain the point where the parallel of 45° of north latitude continued due west from Connecticut River, will strike the River Iroquois or Cataraguy (St. Lawrence) ; and after that should be done, that they should proceed to ascertain *the said parallel of latitude* at such other places between the River Iroquois or Cataraguy and Connecticut River, as should be necessary to an accurate survey of the Boundary Line upon that parallel of latitude, in conformity with the provisions of the 5th Article of the Treaty of Ghent, and of the 2d Article of the Treaty of 1783 : and that the Agents of the respective Governments should furnish to the Astronomers such further instructions, not inconsistent with that order, and also such assistants and laborers, and provisions, and other articles, as might be necessary to carry that order into execution.”

This instruction proves that *at that time*, at least, that is, prior to the commencement of the astronomical operations above mentioned, there existed no doubt in the mind of the American Commissioner as to the propriety of instituting such operations.

The Astronomers appointed for that service, both of them men of first rate scientific acquirements, entered accordingly on the task assigned to them, and had actually accomplished no inconsiderable portion of that task, by fixing the points of the *true* parallel of 45° north latitude on the St. Lawrence, and at several intermediate spots between that river and the Connecticut, when doubts appear to have entered into the minds of the American Commissioner and Agent as to the expediency of continuing those operations :

* Extracted from the Report of the British Commissioner under the 5th Article of the Treaty of Ghent.

and the effectual prosecution of this survey, notwithstanding the repeated representations of the British Commissioner, was from that time suspended.

Boundary Line from the River Connecticut to the River St. Lawrence, along the parallel of 45° N. latitude.

A cursory explanation of the circumstances which occurred relative to the *actual* operations in the interval between their commencement and the period to which we have brought them down, will be highly necessary in order to clear up this proceeding.

From the reports of the Astronomers it appeared that the old line had been found by them to be in many places more or less defective, being laid down sometimes to the south, and sometimes to the north of the true latitude; and at a certain spot called "*Rouse's Point*," near the outlet of Lake Champlain, where the old parallel was found to be unusually inaccurate, there happened to be an important American Fort which had been erected not long before at considerable expense, as a defence for that frontier. That fort, by the rectification of the Boundary Line, was clearly discovered to stand on British territory, that is to the north of the true parallel of 45° north latitude.

Under these circumstances the American Agent put forth a proposition to the following effect.

In an argument delivered by that gentleman before the Board of Commissioners in 1821, he contended that no *fresh* survey of such parts of the Line of Boundary as had been already heretofore laid down as a Boundary between the Provinces of Quebec and New York, while yet both British, was contemplated by the provisions of the Treaties above cited, those parts being considered as already sufficiently ascertained; but he asserted, that in those parts alone, where the line had not been already marked, a new survey was intended. The American Agent declared, at the same time, that if his view were not acquiesced in by the Commissioners, and if the question were still considered as unsettled, he should in that case be compelled to require that the parallel of 45° north latitude should be laid down according to what he termed the principles of "*geocentric* latitude;" as contradistinguished from the generally received, or "*observed* latitude."^{*}

Thus the whole preceding part of the astronomical observations having been performed according to the universally adopted rules of geographical latitude, the American Agent threatened to require that it should all be executed over again according to a scheme never heard of as applied to practical geography.

It may be sufficient to state cursorily in this place, that the practical effect of the substitution of *geocentric* for *observed* latitude, as demanded by the American Agent, would be to throw the parallel of 45° north latitude about thirteen miles farther to the north than the *true* parallel. In proof of the accuracy of the above statement, we annex hereto the account of this proceeding, such as it is stated in the Report of the British Commissioner.

Appendix, No 42, p. 293.

An explanatory letter, written by the British Astronomer, is also annexed, in order to elucidate scientifically the question of geocentric latitude.

Appendix, No 43, p. 303.

With regard to the argument adduced on the part of the United States in support of the *partial*, instead of the *total*, rectification of the Boundary Line on the parallel of 45° north latitude, which is asserted by them to have been intended by the Treaties, it will be sufficient to observe, that however practicable the *partial* rectification of a Boundary Line described in *general terms* may be, that of a Boundary Line traced along a *parallel of lati-*

* It is not a little singular, that the American Commissioner has not thought fit in his Report to enter upon the subject above discussed.

The contingent claim, however, to the adjustment of the Boundary Line in question, on the principle of Geocentric Latitude, which was put forth, *ex officio*, by the American Agent, never having been disavowed, or retracted, must be considered as still advanced, and in force.

Boundary Line
from the River
Connecticut to
the River St.
Lawrence along
the parallel of
45° N. latitude.

tude is impossible. The rectification of *such* a line can be effected only by reducing all the defective portions thereof into the line which forms the true parallel of latitude. If, therefore, the parts already laid down are to be abided by, *being defective*, that rectification cannot be effected so as to produce one continuous Boundary Line. The following illustration, assisted by an inspection of the map, will put this matter in a clear light.

At the point at which the Line of Boundary along the parallel of 45° north latitude sets out from the Connecticut River, the old parallel is erroneous. At St. Regis, on the St. Lawrence, it is correct. If, therefore, these two parts of the line be prolonged indefinitely in opposite directions, they can never meet; and a chasm must exist between the two where they ought to join. But in the Treaties there is no provision for filling up this chasm. They simply provide for *one continuous* line; consequently, if the American construction of the intent of the Treaties were adopted, there would be no means of connecting some portions of the line with the others,—the rectified with the unrectified; and the general Line of Boundary from the Connecticut to the St. Lawrence, instead of presenting one continuous line, would be but a series of unconnected links of a chain, which, as far as existing Treaties are concerned, must ever remain dissevered.

Upon all the grounds above stated, Great Britain founds her present claim relative to this branch of difference between her and the United States, which is—

That the Line of Boundary along the parallel of 45° north latitude between the River Connecticut and the St. Lawrence, be, as provided by Treaty, now surveyed and marked out, and, having been so laid down *afresh*, that it henceforward form the true Boundary Line between the British and American Possessions in that quarter.

APPENDIX TO BRITISH STATEMENT.

TOPOGRAPHICAL EVIDENCE.

- A. Official Map, entitled the Map A, annexed to the Convention of 29th September, 1827.
- A a. British unofficial transcript of the said map A.
- B. Mitchell's Map of North America, annexed to the Convention of 29th September, 1827.
- C. Hale's Map of New England.
- D. Atlas annexed to the Report of the British Commissioner, under the 5th article of the Treaty of 24th December, 1814.
 1. Mr. Johnson's North Line—1.
 2. Col. Bouchette's North Line—1.
 3. Mr. Johnson's North Line—2.
 4. Mr. Odell's North Line—2.
 5. { Captain Partridge's Section of Madawaska River.
 - Ditto from Point Levi to Hallowell.
 - Ditto of the Grand Portage.
 - Ditto of Mars Hill.
 6. Ditto Survey of the Restook River.
 7. Mr. Odell's Survey of the Restook, with a Sketch of the country, as viewed from Mars Hill and the vicinity of Houlton.
 8. Mr. Hunter's Survey of the Aliguash River.
 9. Ditto Penobscot. 1st Part.
 10. Ditto Penobscot. 2d Part.
 11. Streams tributary to Connecticut River, by Mr. Burnham.
 12. Map of Connecticut River, by Dr. Tiarks
 13. Mr. Burnham's Survey of the Source of Beaver Stream.
 14. Ditto Tuladi River.
 15. Dr. Tiarks' Sources of Green and Tuladi Rivers.
 16. Mr. Loring's Penobscot River.
 17. Ditto Moose River.
 18. Mr. Campbell's Sketch of the Height of Land annexed to Mr. Odell's Report of the Survey of 1819.
 19. Mr. Hunter's Survey of the river St. John.
 20. Mr. Loss's Ditto Ditto
 21. Mr. Partridge's Ditto Chaudiere River.
 22. Mr. Carlile's Ditto Ditto
 23. Mr. Burnham's Ditto Ouelle.
 24. Mr. Carlile's Ditto Ditto
 25. Mr. Burnham's Ditto Du Loup.
 26. Mr. Carlile's Ditto Ditto
 27. Extract from Carrigan's Map of New Hampshire.
 28. Extract from Mitchell's Map.
 29. Colonel Bouchette's Plan, shewing the different Lines considered as the Parallel of 45 Degrees, north Latitude.
 30. General corrected Copy from Mitchell's Map.
 31. Greenleaf's Map of the District of Maine.
 32. Colonel Bouchette's Barometrical Section.
 33. Mr. Collins' Plan of Line on the Latitude of 45 Degrees N., run between the Provinces of Quebec and New York.

WRITTEN AND PRINTED EVIDENCE.

1. Convention of 29th September, 1827, between Great Britain and the United States.
2. Treaty of 3d September, 1783, between Great Britain and the United States.
3. Treaty of 24th December, 1814, between Great Britain and the United States.
4. Adolphus' History of the Reign of George III. Chap. 43.
5. Grant of Nova Scotia by James I. to Sir W. Alexander in 1621.
6. Extracts from Pownall's Topographical Description of the middle British American Colonies.
7. Royal Proclamation of 1763.
8. Extracts from the "Secret Journals of the Acts and Proceedings of Congress, &c." published in 1821, under the direction of the President of the United States conformably to resolution of Congress.
9. Calculation by Dr. Tiarks, the British Astronomer, of the loss which would accrue to Great Britain by the adoption of the Line of Boundary now claimed by the United States, as compared with that originally proposed by them in 1782.
10. Reports of the Surveyors and Astronomers under the 5th Article of the Treaty of Ghent.
11. Extracts from the reports of the British and American Commissioners respecting the line of Highlands claimed by the United States as their Line of Boundary, and also relative to certain propositions made on the part of Great Britain for a re-survey of some parts of the disputed Territory and for taking the depositions, on oath, of the persons who were employed in surveying that country, as to the accuracy of their respective Surveys.
12. Extract from a letter addressed by Mr. Gallatin, one of the Plenipotentiaries of the United States for negotiating the Treaty of Ghent, to the American Secretary of State, dated Ghent, 25th December, 1814; extracted from some papers relative to that negotiation submitted to Congress by the President of the United States, on the 21st February, 1822.
13. Concession of the *Fief of Madawaska* to the Children of the Sieur de la Chenaye, 25th November, 1683; and concession to the said Sieur de la Chenaye, and to the Sieur de Villerey, of land lying between their former concessions, 5th April, 1689.
14. Adjudication of the Fiefs of *reviere du Loup* and *Madawaska* to Joseph Blondeau, dit la Franchise, 29th October, 1709.
15. Act of "*Foi et Hommage*" by Joseph Blondeau for the Fiefs of *Reviere du Loup* and *Madawaska*, 13th February, 1723.
16. *Aveu et Denombrement* by Joseph Blondeau, 15th February, 1723.
17. Adjudication of the Fiefs of *Reviere du Loup* and *Madawaska*, to Pierre Claverie, 29th July, 1755.
18. Act of "*Foi et Hommage*" by Pierre Claverie for the Fiefs of *Riviere du Loup*, and *Madawaska*, 19th March, 1756.
19. Receipt for the Dominal Dues for the Fiefs of *Riviere du Loup* and *Madawaska*, 8th May, 1756.
20. Deed of Sale by J. A. N. Dandamme Dansville, and his wife, (the widow of Pierre Claverie,) to James Murray, 20th July, 1763.
21. Deed of Assignment dated 2d August, 1768, by Richard Murray to Malcolm Fraser, of an Indenture of Lease, dated 10th May, 1766, made by James Murray to the said Richard Murray and Malcolm Fraser; and an Indenture of Lease of the said General James Murray to Henry Caldwell, dated 7th April, 1774.
22. Lease from Henry Caldwell, to Malcolm Fraser, 24th September, 1782.
23. Confirmation before a Notary, 27th December, 1786, of Lease from Henry Caldwell to Malcolm Fraser, 24th September, 1782.
24. Deed of Sale, from the Trustees and Executors of James Murray, to Henry Caldwell, 21st June, 1802.
25. Deed of sale by Henry Caldwell to Alexander Fraser, 2d August, 1802.
26. Indictment of Charles Nichau Noite, a native Indian, for a Murder committed at Madawaska, in the Court of King's Bench at Quebec, 2d November, 1784.
27. Extract from the minutes of the Executive Council of the Province of Quebec, relating to the mode of executing Charles Nichau Noite, 3d November, 1781.
28. Extracts from the Quebec Gazette, viz:
 - 1st. From the Gazette of 10th November, 1791; of a Sheriff's Notice of the Sale of Lands of Pierre Duperré, at Madawaska, at the suit of Anselme and Michael Kubi-chaud.
 - 2d. From the Gazette of 24th of January, 1765; of a Notice from the Provincial Secretary's Office, dated 19th January, 1765, forbidding the Canadian Inhabitants from interfering with the Hunting Grounds of the Indians, down to the Great Falls of the River St. John.

- 3d. From the Gazette of 11th November, 1784; of the account of the execution of Charles Nichau Noite, the Indian condemned for a Murder at Madawaska.
29. Proceedings in the Court of Common Pleas at Quebec, commencing 14th September, 1789, and ending 20th January, 1791.
 30. Extract from the Minutes of the Executive Council of the Province of Quebec, relative to the Temisquata Road, 7th July, 1785.
 31. Extracts from the minutes of the Executive Council of the province of Quebec, 9th July, 1787.
 32. Extract from the Minutes of the Executive Council of the Province of Quebec, 4th August, 1792.
 33. Extract from a List of the Parishes in the Province of Quebec, contained in the minutes of the Executive Council of that Province for the year 1791.
 34. Report of Mr. Barrell (the special American Agent) relative to the settlement of Madawaska, &c. communicated to Congress in a Message from the President of the United States, on 4th March, 1828.
 35. Grant to Joseph Muzeroll and forty-eight others, of Lands in the Madawaska Settlement, by the Government of New Brunswick dated 1st October, 1790.
 36. Grant to Pierre Duperré, dated 11th June, 1790.
 37. Grant to Joseph Souci and twenty-six others, dated 2d August, 1794.
 38. Report of the trial of John Baker at the Bar of the Supreme Court of the Province of New Brunswick, on Thursday, 8th May, 1828, for conspiracy.
 39. Extracts from the Census of the United States, for the years 1810 and 1820, published by authority of an Act of Congress.
 40. Grant of Land to Dartmouth College.
 41. Extract of the Report of the Commissioner of the United States, under the 5th Article of the Treaty of December 24, 1814, relative to the difference of opinion between him and the American Agent, with regard to fixing the Boundary of the United States on Hall's or Indian Stream.
 42. Extracts from the Reports of the British and American Commissioners, under the 5th Article of the Treaty of 24th December, 1814, relative to the Survey of the parallel of 45° north latitude, from the River Connecticut to the River St. Lawrence.
 43. Letter from Dr. Tiarks in explanation of Geocentric Latitude.
 44. Observations on the part of Great Britain, on the American separate Transcript of the map, A, and on the engraved maps communicated as evidence on the part of the United States, made in conformity with the 4th Article of the Convention of the 28th September, 1827.

SECOND STATEMENT

ON THE PART OF

GREAT BRITAIN.

ACCORDING TO THE PROVISIONS OF

THE CONVENTION

CONCLUDED BETWEEN

Great Britain and the United States,

ON THE 29th SEPTEMBER, 1827.

FOR REGULATING THE

REFERENCE TO ARBITRATION

OF THE

DISPUTED POINTS OF BOUNDARY

UNDER THE

FIFTH ARTICLE OF THE TREATY OF GHENT.

SECOND BRITISH STATEMENT.

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SECOND BRITISH STATEMENT.

INTRODUCTION.

IN the Convention, by which His Britannic Majesty and The United States of America agreed to refer to a final and conclusive Arbitration the disputed points of the Fifth Article of the Treaty of Ghent, it is stipulated that new and separate Statements of the two Cases, drawn up by the Parties, and mutually communicated by each to the other, should be substituted for the reports of their respective Commissioners. It was further agreed that, after such communication, each Party should have the power of drawing up a second and definitive Statement in reply; the second Statements to be also communicated by the two Parties to each other within a certain specified time. The former part of this twofold stipulation having been duly carried into effect, it now rests with the Contracting Parties to avail themselves of the power reserved to them by the latter clause.

Introduction explanatory of the occasion and object of this second Statement.

On the side of the British Government, the exercise of this power might, perhaps, be waved without danger to the justice or success of their claim, established, as it is, on the grounds set forth in their First Statement, and confirmed by the documents annexed to it. Whatever research and ingenuity may have been employed in framing the argument of the United States, it is, doubtless, on the substantial merits of the case, examined with just discernment, that a decision will ultimately be made. But if either Party, by going anew over the points at issue with immediate reference to the arguments advanced by the other, may hope to render the task of deciding less irksome to the Arbiter, there is at once a sufficient inducement, little short of positive obligation, to present a Second Statement agreeably to the terms of the Convention.

This duty, it is obvious, may be performed on the part of Great Britain either by following the American Statement, paragraph by paragraph, throughout its several divisions, or by exhibiting a general succinct view of the British Case in its own natural order, correcting, as it proceeds, the errors, and exposing, when requisite, by particular application, the fallacies, of the adverse argument. Though something might possibly be gained in point of precision by adopting the more controversial form, there is little doubt that the latter mode of proceeding will be found more thoroughly in unison with that spirit of equity and mutual forbearance, which influenced both Governments in concluding the Treaty of Ghent, and led them not only to anticipate some differences in the course of its execution, but to provide the most effectual means of settling such differences, whenever they might arise, in a friendly and satisfactory manner.

It is not necessary, on this occasion, either to re-state the points of difference, for a just solution of which the Contracting Parties have agreed to resort to the Arbitration of a friendly Sovereign, or to recapitulate the historical circumstances immediately connected with the three Questions in dispute. Those Questions and those Circumstances, together with the passages of the Treaties immediately relating to the former, have already found a suitable place in the opening pages of the First British Statement. The Commercial Treaty of 1794, and the declaration of the Commissioners appointed under its fifth Article to determine what River was the true St. Croix intended by Treaty, may also be cited as affording some additional matter of reference. They are annexed to the American Statement, and the Arbiter will have an opportunity of observing, in the 4th and 5th Articles of the Commercial Treaty, how very erroneous an idea of the country to be traversed by parts of the Boundary Line must have been entertained by the Negotiators of 1783.

1st Brit. Stat. pp. 1 and 2.

1st Am. Stat. Written Evidence Nos. 1 & 2.

Three questions referred to Arbitration.

Of the three questions referred to Arbitration the one, which stands first in the Statements already communicated, is that which is principally characterized by its relation to the Western Boundary of the Province of Nova Scotia, since divided into Nova Scotia and New Brunswick. There is no reason to depart from this order of arrangement now.

FIRST BRANCH OF DIFFERENCE.

It is justly observed in the opening of the American Argument, that those clauses of the second Article of the Treaty of 1783, which regard the Northern and Eastern Boundaries of The United States, must be brought together and connected in order to afford a clear and exact view of the case submitted to Arbitration. The words of the Treaty are these: "From the North West Angle of Nova Scotia, viz. that Angle which is formed by a line drawn due North from the source of St. Croix River to the Highlands, along the said Highlands which divide those Rivers that empty themselves into the River St. Lawrence from those which fall into the ATLANTIC OCEAN to the north-westernmost head of Connecticut River;—EAST, by a line to be drawn along the middle of the River St. Croix from its mouth in the Bay of Fundy to its source, and from its source directly North to the aforesaid Highlands which divide the Rivers that fall into the ATLANTIC OCEAN from those which fall into the River St. Lawrence: comprehending all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due East from the points where the aforesaid Boundaries between Nova Scotia on the one part, and East Florida on the other, shall respectively touch THE BAY OF FUNDY AND THE ATLANTIC OCEAN." It will be remembered that the last clause of this extract refers to a preceding part of the same article in which the Southern Boundary of The United States is described as following the course of St. Mary's River to the Ocean.

First question. North-east Boundary of The United States. 1st Am. Stat. p. 4.*

Although the British and American Governments differ as to where the point of departure for the northern Boundary of The United States, designated by the name of the north-west angle of Nova Scotia, is to be placed according to the intention of the Treaty; and although the conflicting claims involve a difference of 105 miles distance on the due north Line, and of 10,705 square miles in total extent, both Parties agree in stating, that in order to determine the true situation of the above-mentioned point of departure, the *highlands intended by the Treaty must first be determined*. The correctness of

App. 1st Brit. Stat. p. 49. 1st Am. Stat. p. 5.

* The references are made to the British reprint of the first American Statement.

this opinion admits of no doubt. The Treaty stipulates that the eastern Boundary Line shall be drawn directly north to the highlands; and that the northern Boundary shall extend along the highlands from the point where the said north Line strikes them. Notwithstanding a certain awkwardness in the construction, it may, on the whole, be presumed that the Treaty contemplates the same highlands in the several clauses of the Article wherein that term is used. The real question, therefore, which the Arbiter will have to decide, is this: *Along what highlands, touched by a line drawn due north from the source of the St. Croix, is the northern Boundary of The United States to be carried, westward, to the north-westernmost head of the Connecticut River?*

However simple the form in which this question is stated, there would be no great candour in representing it as one of easy solution. The circumstances under which the Treaty of 1783 was concluded, were such as to make it extremely probable that serious difficulties would arise in the course of its execution. The first object of the negotiation, common to both Parties, was peace; the second was the establishment of peace on solid and durable foundations. It was essential to the latter purpose that the Boundaries of The United States should be explicitly and conclusively defined by mutual consent. By waiting for all the topographical information necessary to give a detailed description of the Boundaries, the negotiators would have exposed the whole work of pacification to the most imminent risk. This cannot fail of striking every one who bears in mind the immense extent of inland boundary claimed by the United States, as well on the side of the British Provinces as on that of the western wilderness. A considerable portion of the frontier territory was, at that time, altogether unknown, or, at best, very imperfectly explored. The framers of the Treaty were therefore reduced to the alternative either of confining themselves to a general definition of the Boundary according to such notions as they already possessed of the principal features of the country, or of abandoning every uncertain and disputed part of it to subsequent negotiation. That the former course of proceeding was ultimately preferred, notwithstanding the inconveniences attached to it, on distinct and deliberate consideration, is evident from the recorded fact of the British Plenipotentiary having rejected, after reference to his Government, the proposal of the American negotiators to apply the principle of an indefinite postponement to a part of the frontier involving that which is immediately in question. The nearest practicable approach to settlement, preceded by a statement, as well in the Treaty itself as in its preamble, of the wise and conciliatory foresight which influenced the Contracting Parties, was naturally deemed more likely to promote a permanent good understanding between them, than a mere agreement, tacit or expressed, to complete the definition of the Boundaries at some later eventual period.

The Treaty of Ghent appears to have been concluded under a like anxiety to prevent or settle disputes arising out of the uncertain state of the Boundaries. How indeed could it be otherwise with the experience which had been acquired after the peace of 1783, and convincing evidence of which exists in the 4th and 5th Articles of the Commercial Treaty concluded in 1794? In the former of these Treaties it was presumed that the River Mississippi would be intersected by a due west line drawn from the north-westernmost point of the Lake of the Woods. The 4th Article of the latter is applied to the correction of that error. In the same manner it was found necessary to appoint a Commission for the purpose of determining which river was meant to be the St. Croix designated in the Treaty of 1783, as forming part of the Eastern Boundary of The United States. Other instances of the perplexity and ignorance which evidently prevailed to a very late period respecting many parts of the frontier territory might be easily adduced. But let it suffice for the present to observe, that if little was ascertained concerning the sources and directions of rivers, which generally afford the earliest means of communication, and the most convenient places for settlement in newly occupied countries, how very

1st Brit. Stat.
p. 7.

Circumstances to
be borne in mind
in considering
the Treaty of
1783.

1st Brit. Stat.
p. 15.

much less was probably known of a hilly or mountainous tract, situated at a distance from the sea, overgrown with forests, and intermingled with extensive morasses.

A moment's reflection on what precedes cannot fail of shewing how extremely difficult, or rather how utterly impracticable it must have been for the Negotiators of 1783 to describe the Boundary throughout its whole extent in such terms as to leave no room for hesitation or dispute in fixing its actual delimitation. It would surely be more reasonable to wonder at the degree of success which has attended the labours of the Commissioners employed in that operation, than to be unprepared for some occasional inconsistency between the expressions of the Treaty and the localities of the country when ascertained by regular surveys.

In no inquiry of this description can the ends of justice be attained, except by looking steadily to the intentions of the Treaty, or, in other words, of those who framed it. Few Treaties would afford occasions for dispute, none certainly for arbitration, if the terms, in which they are expressed, could always be applied with clearness and certainty to the cases for which they were meant to provide. It is precisely the obscurity, or contradiction of the terms, or a want of evident conformity between them and the thing to be done, which is the frequent cause of difficulty in carrying Treaties into execution. This defect attaches more or less to all human agreements. In those which subsist between Governments and Nations, separated from each other by distance, and still more so by the difference of their views, circumstances and interests, there must necessarily be greater room for its operation. From what special causes the Treaty of 1783 was peculiarly liable to this evil, in so far as respects the Boundaries of The United States, it would be superfluous to repeat. The cogent evidence, however, which comes in aid of the letter of the Treaty to indicate the real intention of the Parties, and to enforce the adoption of a just decision, would leave as little reason to regret any want of preciseness that might be found in its terms, as any such inaccuracy would itself be calculated to create surprise under the known circumstances of the case.

But if it can be shewn that the terms of the Treaty, rightly understood, are *not* in contradiction, either with the principal features of the country, as now ascertained, or with the presumed intentions of the Parties, and, on the contrary, that they correspond, to all declared intents and purposes, with the Boundary Line indicated by the present British claim, such a concurrence, which could hardly have been reckoned upon with entire confidence when the Treaty was signed, must surely be entitled to its full weight. The conclusion to which it leads would be the more inevitable, when taken in connection with what has been proved in the former Statement; namely, that the wording of the Treaty, in one decisive particular,* was clearly and cautiously selected, with a view to that very limitation for which Great Britain contends in support of her claim. Evidence of this description leaves little or nothing to be desired. But, after all, the main object of the Arbitration is to ascertain the real intention of the Parties to the Treaty, and provided that object be attained according to the best available means of information, it is of small comparative importance whether the *spirit* or the *letter* of the Treaty be found most conducive to its accomplishment. One thing is *certain*: the *letter* is only of value in proportion as it tends to the discovery or maintenance of the *truth*. Now, truth is by no means of a narrow or partial character. It cannot, indeed, be entirely severed from the letter, but it is diffused through the context, and lives in the spirit of a Treaty. Vattel has been cited in the former Statement to confirm the justness of this remark. The same distinguished Author expresses himself as follows, in the 17th chapter of his Second Book. "If it happens that the Contracting Parties have not made known their

1st Brit. Stat. p. 5, &c.

1st Brit. Stat. p. 6.

* This refers to the term "Atlantic Ocean," used in the second Article of the Treaty of 1783, and further explained in the course of the ensuing pages.

"will with sufficient clearness, and with all the necessary precision, it is certainly more conformable to equity, to seek for that will in the sense most favorable to equality and the common advantage, than to suppose it in the contrary sense." Thus it is, that the authority of the most approved writers on the Law of Nations is found in strict accord with the maxims of common sense and good faith.

The United States have, indeed, spared no effort to make out that the terms of the Treaty, taken in their obvious and literal sense, establish incontestably the line of boundary claimed by them to the exclusion of every other. The truth of this assertion is positively denied on the part of Great Britain. The words of the Treaty Article, taken by themselves, lead to no such conclusion; taken with reference to the Treaty at large, they lead to a very different conclusion; and taken with reference not only to the Treaty, but also to the intentions of those who framed it, as further manifested by various corroborating circumstances, they establish clearly and satisfactorily the justice of the British claim.

Looking, first, to the Treaty itself, nothing can be clearer than the great governing principle upon which its provisions were founded. This principle is distinctly laid down in the preamble of the Definitive Treaty concluded in 1783, and also in that of the Preliminary Articles signed in the preceding year. "*It is agreed*," says the latter, "*to form the Articles of the proposed Treaty on such principles of liberal equity and reciprocity, as that partial advantages (those seeds of discord) being excluded, such a beneficial and satisfactory intercourse between the two Countries may be established, as to promise and secure to both perpetual peace and harmony.*" In the Definitive Treaty it is declared to be the intention of the Parties to establish their relations with each other "*upon the ground of reciprocal advantages and mutual convenience*," in such manner as to promote and secure the same great object of perpetual harmony between both. In addition to these general but forcible expressions, the Article immediately relating to Boundaries is prefaced by a specific statement of the motive which induced the Parties to declare them by mutual agreement, namely, "*that all disputes which might arise in future on the subject of the Boundaries of the said United States may be prevented.*" No words could express more distinctly than these passages the desire of both Parties, not only to preclude the possibility of future dispute by defining the Boundaries as positively as it was then practicable to define them, but also to settle them in such manner as would best consult the convenience of each Party, and thereby conciliate the acknowledged rights and true interests of both.

It further results from an examination of the Treaty, that although the agreement to define the Boundaries originated in the above-mentioned motives, the act of definition itself was peremptory, and purposely rendered independent of every principle or motive, but the declared consent of the Parties. The first Article contains a recognition of the independence of the Thirteen United States and of their territory. The second Article declares, by mutual agreement, what the extent of the territory so recognized was meant to be. The recognition and the declaration are two separate things. The Treaty being silent, it cannot be presumed that they were intended to be strictly co-extensive, in the teeth of that uncertainty which was known to hang over the conflicting claims of the two Countries with respect to a considerable portion of the common frontier.

This peremptory definition of the Boundaries, it is also to be remembered, was applied exclusively to The United States. There is no question of the Boundary of the British Colonies, except as a consequence of the settlement of The United States' Boundary. Wherever the States border on those Colonies, the same Boundary Line which limits the one must necessarily limit the other also. The two Countries did not stand in corresponding situations towards each other when the Treaty of 1783 was negotiated. Whatever advantage might accrue to The United States from having their sovereignty recognized by Great Britain, the validity of the British title to the remaining British Possessions could derive no additional strength from being acknowledged by them.

Intention of the
Treaty Article
respecting Bound-
aries.

On the whole, then, it may be affirmed with confidence, that the intention of the Treaty was,

- 1° To define exclusively the limits of The United States ;
- 2° To define them peremptorily ;
- 3° To define them with the view of preventing future disputes ; and,
- 4° To define them in such manner as to promote the "reciprocal advantage and " mutual convenience" of both Countries.

Negotiation
which preceded
the conclusion of
of the Treaty.

The next field of inquiry is the negotiation which preceded the conclusion of the Treaty. But in making any inquiry into the imperfect records of that event, care must be taken to guard equally against partiality, and needless discussion. The last of these dangers may be avoided by appealing only to such documents, relative to the Treaty, as proceeded either from the negotiators themselves, or from the authorities, under whose instructions they acted. The former is little to be apprehended on the side of Great Britain, if the documents referred to, instead of being British, or even common to both parties, are entirely and exclusively *American*. Sufficient materials, even on this limited plan, are to be found in the First Statement and its Appendix.

1st Brit. Stat.
p. 8, et seq.
App. to do.
p. 38 et seq.

First, the In-
structions of the
American Con-
gress.

The instructions framed in 1779 by the Congress of The United States, preparatory to a negotiation for peace, contain the same Article respecting Boundaries which, with some important modifications, was afterwards transferred to the Treaty. The changes introduced into the Article relate to two portions of the Boundary: 1° That part of the Northern Boundary which extends from where the parallel of 45° North Latitude intersects the River St. Lawrence to the Mississippi; 2°. The Eastern and adjoining part of the Northern Boundary of The United States.*

The first of these amendments has had the effect of substituting for the Line proposed by the United States from Lake Nepissim to the Mississippi another line passing very considerably to the South, through the great chain of North American Lakes. In virtue of the second, the River St. Croix is made to constitute the eastern boundary of The United States, instead of the River St. John, which had been proposed by the American Congress; and certain highlands are substituted for that part of the River St. John, which would have formed a boundary on the north; a definition of what was to be understood by "the North " West Angle of Nova Scotia," having been at the same time inserted in the same Article of the Treaty. It is further to be observed, that such latitude as had been given by the instruction itself to the American Commissioners was subjected to certain specified restrictions, and that in both the cases above mentioned these restrictions, as well as the original proposals, were set aside in the course of the negotiation. With respect to the latter, the American Negotiators, in case of not being able to obtain the River St. John for an eastern boundary, were "*empowered to agree that the same should be afterwards adjusted by Com- " missioners to be duly appointed for that purpose.*" It is needless to repeat the words of the Treaty already cited to prove that neither of these two proposals, the original or the substituted, was accepted; but on the contrary, that a more westerly river than the St. John, and one which had consequently the effect of contracting the territory to be defined on that side, was ultimately agreed upon, and so consigned to the Treaty.

App. 1st Brit.
Stat. p. 40.

The mere exposition of these facts is sufficient to establish that, whatever may have been the principle upon which The United States thought fit to ground their pretensions, the proposals emanating from it were evidently not satisfactory to the British Government, and that the principle itself was so little capable of bearing them out, that it became indispensable to admit a new arrangement of the Boundaries, which could not possibly repose on the same principle.

* Although, in the instruction addressed by the American Congress to their Commissioners, the proposal of the River St. John is expressed only with reference to the east boundary, it is, nevertheless, manifest that, owing to the bend of that River to the westward, it would, in point of fact, constitute a considerable part of the northern boundary also.

It is observable, indeed, that the American Instructions declare no principle of Settlement with respect to the Boundaries. To say that "*the Boundaries of these States are as follows*," is the assertion of a fact, not the declaration of a principle. Supposing the proposition contained in these words of the instruction to be true, it may have been true on the principle of possession, or on that of right derived from any one of several distinct sources, or from all. It may have been a right of the United States, taken severally, or of the same States constituting one political Body. The only part of the instruction relating to Boundaries, which even hints at a principle, is that incidental clause wherein a substitution for the proposed eastern boundary is placed eventually at the discretion of the American Minister. Speaking of the appointment of Commissioners as conditionally suggested, the clause in question runs thus: "*According to such Line as shall be by them settled and agreed on as the Boundary between that part of the State of Massachusetts Bay, formerly called the Province of Maine, and the Colony of Nova Scotia, agreeably to their respective rights.*" But this proposal having been rejected by the British Government, and a new arrangement substituted authoritatively in the Treaty for the original proposal which preceded it, there is no ground whatever for concluding that the Treaty stipulation, as it now stands, was, in any degree, connected with that principle. The presumption is, indeed, entirely the other way. In giving a discretionary power to their Minister on the two points before-mentioned, The United States express themselves as follows: "*Notwithstanding the CLEAR RIGHT of these States,*" (viz. to the set of boundaries first proposed) "*and the importance of the object, yet they are so much influenced by the dictates of RELIGION AND HUMANITY, &c. that you are hereby empowered to agree to some other Line, &c.*" That is to say, the "clear right" of the United States was eventually to be given up from general motives of "humanity" to the objections, *as such*, of their adversary; not, observe, to any convincing proofs which that adversary might furnish of his superior title to parts of the frontier territory, but to his determination rather to carry on the war, than to sign a peace in strict conformity with the pretensions of The United States. Such forbearance is worthy of the highest praise on grounds of "religion and humanity;" but it is any thing rather than evidence that the Boundaries, as ultimately agreed upon, were regulated by a fixed acknowledged principle of right.

Another document calculated to throw light on the present inquiry, is one of inferior authority, but not without interest, as having been composed under the sanction of the American Congress in 1781, and exhibiting the notions, which then doubtless prevailed in that Assembly, concerning the territorial rights of The United States. An attentive perusal of the Extracts of this Report annexed to the First British Statement can hardly fail to suggest the following conclusions:—1°. That although The United States may not have thought it prudent to ground their territorial claims upon any distinct principle in the instruction prepared for their Plenipotentiary, they well knew that their only plausible title was that derived under their charters as British Colonies, modified by subsequent Acts of the Government. 2°. That, although they deemed the justice of their claims too manifest to require the exhibition of any direct proofs, they, nevertheless, anticipated opposition from Great Britain to their proposal respecting the north-eastern Boundary, and perhaps even the assertion of a counter-claim, as far west as the River Penobscot or the Kennebec. 3°. That with reference to the limits of the Sagadahock Territory, they felt the necessity of *urging probabilities*, "*because in the early possession of a rough unreclaimed country, accuracy of Lines can not be much attended to.*" 4°. That it was their "*wish*" to have the "*north-eastern Boundary of Massachusetts left to future discussion.*"

There is no necessity for going into any length of reasoning on these conclusions. It is sufficient to consign them here for eventual reference in future stages of the argument. To one point, however, it may be well to direct immediate attention, namely, the "*wish*" expressed by the American Congress that the *north-eastern Boundary of Massachusetts* should

These instructions declare no principle of settlement as to the boundaries.

App. 1st Brit. Stat. p. 291.

App. 1st Brit. Stat. p. 40.

Ibid.

Secondly, Report of Committee of the American Congress.

App. 1st. Brit Stat. p. 40.

Ibid, p. 4.

be reserved for future discussion. Some of the circumstances under which that wish was entertained may be easily collected from the documents already referred to.

It appears, in the first place, that The United States were then actually in possession of "Grants, Charters, Royal Commissions and Indian Cessions," sufficient in their opinion to prove the "clearness" of their "right." It also appears that the channel of the River St. John, such as it was afterwards proposed in negotiation as their north-eastern Boundary, was comprehended in that right; that the independent sovereignty of The United States, so closely connected with their territorial right, remained to be established; and that its establishment in virtue of the formal recognition of Great Britain was the main object, to which they were looking with eagerness as the crown and consummation of their struggle.

The approximation of these circumstances is by no means unimportant. It was natural to inquire why there should have been any wish on the part of The United States to leave their north-eastern Boundary unsettled in the Treaty of Peace, which was to settle all other parts of the Boundary, when they were already possessed of such convincing proofs of the "clearness" of their "right?" The answer is now obvious. The American Congress, besides wishing earnestly for Peace, did not overlook the advantage with which they might hope to maintain their pretension in its utmost extent after the recognition of their independence should have been placed by an act of solemn ratification beyond the reach and option of Great Britain. It might be difficult to prove that the same reason was among the motives which induced the British Government to insist upon defining the whole Boundary Line in one and the same Treaty; but it is at least evident, *in point of fact*, that Great Britain could not have acted more strictly in accordance with that supposition than she *did*; and that the agreement ultimately consigned to the Treaty bore every appearance of proving an effectual safeguard against future dispute or encroachment.

The correspondence of the American Plenipotentiaries, and the evidence which they subsequently gave on oath before the Commissioners appointed under the Treaty of 1794 to ascertain the true River St. Croix, also present and confirm facts which it is material to bear in mind. The letters and evidence in question are so particularly noticed and explained in the First Statement, that it is sufficient to refer to them here as furnishing the data which follow.

Fourthly, Correspondence of the American Plenipotentiaries.

1st. Brit. Stat. p. 15 et seq.

1°. The proposals made to the British Plenipotentiary, in the Negotiations of 1783, were in substance precisely the same as those which appear in the instructions drawn up by the American Congress in 1779, and to which the approved Report of their Committee, in 1782, refers.

2°. These proposals, on their being sent to London by Mr. Oswald, were rejected by the British Government.

3°. The American Negotiators, after some difference of opinion, agreed *amongst themselves* to regulate their demand by the Charter of Massachusetts Bay.

4°. Between the rejection of the first American proposals, and the adoption of the Article, which now stands in the Treaty, much strenuous contestation took place respecting the Boundaries, the British Negotiators demanding successively to the Kennebec, to the Penobscot, and to the St. Croix.

5°. No mention is made of any principle *agreed upon by both Parties* as the basis on which the conflicting territorial claims were to be adjusted.

The American Statement, which perfectly coincides with the first four clauses of this exposition "*clearly infers*" that "the confirmation of the Boundary Line between "the Province of Massachusetts and the other British Provinces, as it existed prior to "hostilities, was *adopted* as the basis of that part of the Treaty." It has already been shewn that this is a forced and unwarranted inference. The British Government had rejected the Boundary of the River St. John, proposed *of right* by The United States, and had also rejected the proposal of reserving the disputed Boundary for settlement on

1st. Am. Stat. p. 11.

the basis of the Colonial rights. The American Statement infers, nevertheless, from the mere fact of the subsequent agreement, as consigned to the Treaty, that Great Britain, in refusing the postponement of the question, had accepted the sort of half expressed principle with which it was mixed up. Surely, this is equivalent to saying that the refusal of the whole implies the acceptance of a part.

Enough has been stated to establish that what was laid down in the outset of this inquiry as the general intention of the Treaty of 1783, resulting from an examination of the preliminary expressions employed therein, is fully borne out by such additional information of an authentic kind, as can now be obtained respecting the negotiations, either during their progress or immediately prior to their commencement. The instructions and correspondence of the American Negotiators coincide with the Treaty itself, in showing, that notwithstanding the conviction professed by The United States of the "clearness" of their "right," a great degree of uncertainty prevailed on both sides respecting the claims of either Party to the Territory in dispute, and that it was ultimately found best to cut the knot by a peremptory decision, resting on no principle but that of mutual consent and the obvious utility of removing any immediate causes of disagreement and collision from the intercourse of the two Countries.

General results of the preceding inquiry as to the principle of the Treaty decision respecting boundaries.

Having thus endeavored to form, on grounds already explained, a distinct and correct conception of what the framers of the Treaty had generally in view when they defined the Boundaries, in the absence of any settled line then existing between Massachusetts and the adjoining British Provinces, it may considerably advance the argument to know what notions were at that time entertained of the country, to which both Parties asserted a claim. No very detailed or perfect information can be expected to result from such an inquiry. The opinion of the American Congress has just been cited to the effect that "probabilities" only can be "urged" with respect to a "rough unreclaimed country." Some knowledge, however, though in many respects limited and inaccurate, must surely have existed of a region not wholly destitute of settlers, which had been traversed not long before by a body of Troops, and previously investigated by an Officer in the public employment, and of which several maps exhibiting the supposed courses of the principal rivers and the general outline of the coast and bays had been published. That knowledge, whatever may have been its degree, must surely have reached the Negotiators of the Treaty; and there can be little doubt that in describing the Boundaries of The United States, they were more or less guided by its influence. The extracts from Pownall's topography, annexed to the First British Statement throw a strong light on this part of the inquiry, and serve to bring into one point of view what was known, and what was not known, respecting the high ranges of land from which the principal rivers, to the east of Lake Champlain (falling, according to his threefold division, *either into the St. Lawrence, or into the Ocean, or into the Bay of Fundy*) derive their head waters.

Notions entertained of the disputed Territory in 1783

First, there is a range running in a north-easterly direction from the source of the Connecticut River, forming "the height of land between Kennebaig and Chaudière Rivers."

Secondly, there is the range, also termed "*Height of Land*," in which are situated "all the heads of Kennebaig, Penobsciaig, and Passamaquoda Rivers." This Height of Land runs "east north-east," and is rather a prolongation of the former range than a separate one.

Thirdly, the tract of Country lying between this "*Height of Land*" and the St. Lawrence, is described as fifty miles in breadth, offering "a difficult and very laborious route," and one only practicable for Troops, when unaccompanied with artillery and heavy baggage.

It must be added, that with the exception of the head waters of the River Connecticut, which had been recently ascertained by an actual survey, the latitudes of the rivers at their respective sources appear to have been laid down with no great precision. Mr. Pow-

App. 1st Brit. Stat. p. 33, and Pownall's Topography.

nall says, however, that on taking possession of the Penobsciaig Country, he had "all the eastern branches of this river traced to their sources, and the communications between them and the waters of Penobsciaig scrutinized by constant scouting parties."

Pownall's Topography, p. 17.

Speaking of the whole range of highlands at the head of the Atlantic Rivers nearest to the Connecticut, the Author observes as follows: "Between this high mountainous tract and the Ocean, both in its northern and its eastern range, there is a Piedmont of irregularly broken hilly land. Of that, in the eastern parts of New England, especially east of Penobsciaig, I can say nothing with accuracy, and will therefore say nothing at all."

This, it must be allowed, is the language of an Author scrupulously attached to truth; and, on the whole, it may be inferred with safety from his work, that all the Rivers flowing into the Atlantic between the Connecticut and the St. Croix were either known or supposed to have their head waters in a range of highlands, or mountainous tract, stretching eastward with a strong northerly inclination; and that less was known of the range in proportion as it extended towards Nova Scotia.

It is hardly conceivable that such a work as Mr. Pownall's should have been unknown to the persons who negotiated the Treaties of 1782-3, nor is it at all likely that much had been added to the topographical accounts of New England and the adjoining districts, between the period of its publication in 1776, and the conclusion of the Preliminary Articles of Peace.

Proclamation of 1763.
App 1st Brit. Stat. p. 34.
1st Am. Stat. pp. 9 and 16.

At an earlier period than either of those the Royal Proclamation of 1763, which is referred to in both the Statements already communicated, makes mention of "highlands which divide the Rivers that empty themselves into the River St. Lawrence, from those which fall into the Sea." But the terms in which it is drawn up are too general to throw any additional light on this part of the subject. The utter impossibility, which is now known to exist, of joining the two extremities of the Line therein described as passing "along the highlands," and also "along the north Coast of the Bay des Chaleurs," and a similar inconsistency which had been previously discovered and imperfectly remedied in another part of the same boundary line, by the description of that line in its counterpart the Quebec Act, render that document as well as the latter wholly inapplicable, for any geographical purposes, to the present question.*

Terms of the Treaty considered.

It is now time to consider the particular expressions of the Treaty in which the difficulties of this Question are involved, and it may be hoped that the preceding inquiries and remarks will contribute effectually to their solution. The precise words of the second Article are these, "From the north-west angle of Nova Scotia, viz. that angle which is formed by a line drawn due north from the source of St. Croix River to the Highlands, along the said highlands which divide those Rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River."

This passage declares that the "north-west angle of Nova Scotia" was to be the point of departure for the Boundary line of The United States. What does the north-west angle of Nova Scotia mean? The words which follow in the Treaty explain its signification: "That angle which is formed by a line drawn due north from the source of St. Croix River to the highlands." This definition, which was not in the Article as first proposed by The United States, and which was, therefore, in all probability, made necessary by some subsequent consideration, evidently comprehends two lines: the one, artificial, viz: a due north line drawn from the source of the River St. Croix; the other, a natural line, formed by one of the most striking features of the country, that is to say, the "Highlands." The former of these Lines having been sufficiently ascertained for

* For a further explanation of this, see page 30.

the purposes of this investigation,* the first object of the present inquiry is to fix the proper sense of the term "Highlands" as intended by the Treaty.

It cannot be denied, with any appearance of reason, that in common usage the word "Highlands" suggests the idea of a mountainous tract or range of conspicuous elevations. Such is the idea we naturally convey in speaking of the Highlands of Scotland or of those of the Hudson River. By the word Highlander is meant, in general, a Mountaineer.

That a tract or range of high broken land, rising occasionally into eminences seen from a distance along the horizon, was in part known and in part believed to exist along the heads of all those Rivers which water the eastern parts of New England from the Connecticut to the Penobscot, and so on, has been shewn satisfactorily in the former Statement. The passages which have been quoted in this from Pownall's "Topographical Description" 1st Brit. Stat. p. 25. confirm the justness of that impression.

The very manner in which the term "Highlands" is first used in the Treaty is not indifferent as to the intention of the Negotiators in selecting a word, which was not necessary to the expression of their idea, when divested of all reference to visible elevation. The term "Height of Land" was well known in America, and frequently used in works, with which the Negotiators of the Treaty cannot be supposed to have been unacquainted, to express any land immediately separating head waters falling off on each side in opposite directions. We are not then at liberty to divest the word actually chosen by the Negotiators of its own proper signification, especially as it is used, *in the first instance*, without any epithet or qualification whatever calculated to change or modify the impression, which, taken alone, and by itself, it cannot fail to convey. The words of the definition, as quoted above from the Treaty, are "from the source of St. Croix River to the Highlands;"—to the Highlands positively, and without any addition. It is not till the ensuing clause, where the same word is used again, not, as before, for the purpose of laying down the point of departure of the northern Boundary Line, but in order to indicate the direction which it was to take on leaving the point so laid down, that the Highlands are designated with reference to certain Rivers divided by them.

Enough having been said on this part of the subject in the first Statement, it is not intended, by adverting to it here, to call in question the indissoluble connection subsisting under the Treaty between the Highlands and the Rivers, but merely to enforce and keep in view the propriety of not entirely changing the natural character and signification of so prominent a term of the Treaty on the very inadequate and erroneous grounds advanced in the American Statement. 1st Brit. Stat. p. 24, et seq.

Even on Mitchell's map, to which the American Statement refers for evidence that the Negotiators of 1783 looked exclusively to the rivers and water courses of the country, there are traces of its having been thought at that time that elevated tracts or ranges of high land, more or less marked with conspicuous eminences, lay generally to the north of the Rivers falling into the Atlantic Ocean. On comparing that part of Mitchell's map with other parts which represent the known mountainous regions, such, for instance, as New Hampshire, but little difference is perceptible in those graduated marks which are there used, as in other maps, to indicate hills or mountains. The American Statement, itself, 1st Am. Stat. p. 6. does not entirely discard the idea of visible elevation from the term "highland," since it accounts for the application of that term to the dividing lands designated in the Proclamation of 1763, by supposing that the early navigators of the River St. Lawrence observed certain 1st Am. Stat. p. 24.

* An exploring line only, run by the compass, with occasional allowances for the variation of the needle has been traced from the source of the St. Croix due north.

mountainous appearances in that direction, and gave the name of highlands to the region which they have thus gratuitously the credit of having described as they sailed along the channel of the River.

Highlands dividing Rivers.

There is no doubt, however, that, in fixing the true sense of the Treaty, the term "highlands" must be taken in connection with the words "dividing Rivers," which immediately follow it in every instance but the first. These words themselves must not be detached from the remainder of that clause, which goes on to specify the particular Rivers divided by the highlands in question, namely, "those that empty themselves into the River St. Lawrence," and those "which fall into the Atlantic Ocean." It thus becomes necessary to ascertain what Rivers are meant by the Treaty, in order to settle, with the requisite degree of clearness, along what Highlands, or parts of the Highlands, the Boundary Line is to be drawn.

What Rivers to be divided.

There would be less difficulty in deciding this question if all the waters of the disputed Territory came within one or other of the two classes specified above. But there are other Rivers in that part of the Country, and these Rivers fall neither into the River St. Lawrence nor into the Ocean, but into the Gulf of St. Lawrence, (or, more properly into the Bay of Chaleurs,) and the Bay of Fundy.

1st. Am. Stat. pp. 6 and 7.

The American Statement affirms that "the Treaty recognizes but two classes of "Rivers," and, therefore, infers "that all the Rivers met by the due north line which do "not actually empty themselves into the River St. Lawrence according to its known "limits, are, by the Treaty, considered as falling into the Atlantic Ocean." The assertion and the inference must alike be met by a positive contradiction. It is true that the Treaty only *names* two distinct classes of Rivers in the clause under consideration; but the same Treaty affords abundant evidence that other Rivers, separate and excepted from the two classes, thus specifically named, were also in the contemplation of those who carried on the Negotiations; and the very same clause of the Treaty contains an express limitation, which was evidently used on purpose to preclude the chances of misconstruction incident to a less cautious wording of the Article, and which, if that had not been the case, it is very difficult to believe that the American Negotiators would have retained or admitted.

True meaning of the term "Atlantic Ocean."

The Article respecting Boundaries originated, as it has been stated, with the American Congress. Notwithstanding the alterations which it underwent in the course of Negotiation, the term "Atlantic Ocean," as applied to the Rivers contradistinguished from those which fall into the River St. Lawrence, remained in that Article. But although the two words remained, the proposition with which they were immediately connected had experienced an essential change. By the Treaty Article, the eastern Boundary of the United States is made to pass along the River St. Croix. According to the Article originally drawn up by the American Congress, and subsequently proposed by their Plenipotentiaries to that of Great Britain, the River St. John, from its source to its mouth, was to have occupied in the Treaty the place of the St. Croix. The result of carrying such a proposal into effect, would have been that the Highlands along which the Boundary Line was to pass, would have commenced near the head waters of the Penobscot, and as the line was to be carried westward, along those parts of the highlands which immediately divide the head waters of the Penobscot and Kennebec, both strictly Atlantic Rivers, from those of the Chaudière, there was an evident and special propriety in employing the more limited term, applied, as it then was, exclusively to rivers falling into the Atlantic Ocean. There is the more reason to believe that the adoption of this term is solely attributable to the position of the spot where the Highland Boundary was to begin, since it was substituted for the more comprehensive word "*Sea*," which appears in the corresponding part of the Proclamation of 1763, whence the Congress of The United States had, doubtless, borrowed the substance of many parts of their proposed Article.

The American Statement denies that there is any difference, on which to found the distinction maintained by Great Britain between the terms "Sea" and "Atlantic Ocean." 1st Am. Stat. p. 7. The Proclamation itself is there appealed to in proof that they were synonymous. But in those parts of the Proclamation in which Boundaries are defined, and which were consequently drawn up with a closer attention to the expression, the Atlantic is manifestly used in its limited and more appropriate sense, as contradistinguished from the Gulfs with which it communicates. Referring to the Government of East Florida, the Proclamation limits it by the course of the River St. Mary's to the "*Atlantic Ocean*," and "to the east and south " by the *Atlantic Ocean* AND the *Gulf of Florida*."

In that part of the same Proclamation, which has been quoted on behalf of The United States to prove the synonymous usage of the two terms, there is evidence, derived from the context, to shew a total want of analogy between the respective cases. The Proclamation speaks of "Territories lying to the *westward* of the sources of the Rivers " which fall into the Sea from the west and north-west, as aforesaid." The corresponding passage, which is here referred to by the word "aforesaid," runs as follows "for lands " beyond the heads or sources of any of the Rivers which fall into the *Atlantic Ocean* from " the west or north-west.*" These clauses of the Proclamation are certainly not to be applied to the Rivers of New England and Nova Scotia, but to those south-west of them, emptying into the Atlantic Ocean, beyond and to the westward of whose sources lay that extensive territory which still retains, in a great measure, the name of the Western Wilderness, bounded by the River Mississippi, which, at the date of the Proclamation, was the western limit of the then British Provinces. The relative position of the lands mentioned in the Proclamation, with respect to the rivers described by that document, as coming from the west and north-west, is regulated by the term *westward*; and, consequently, if any rivers could be proved to discharge into the Gulf of Mexico from the west or north-west, which is not strictly the case, still such rivers could not have been contemplated in the Proclamation, as the lands in question would be eastward, and not westward, of such rivers. This being the case, it is evident that, in the first of the two clauses cited above, the term "Atlantic Ocean" is used with strict propriety in the limited sense of the word, as referring to those Rivers which discharge their waters from the west or north-west immediately into the Atlantic, and that in the second clause the word "Sea" is used in place of Atlantic Ocean, not as strictly synonymous with it, but as embracing the Rivers in question, though not excluding or taking notice of any others. A cursory comparison of the two clauses will suffice to shew that they were not intended to be strictly identical as to the words, but only of similar force and purport; which was all that the occasion required.

To return to the Article of the Treaty:—Nothing can be more clear or positive, than the distinction therein established between the Atlantic Ocean and the Bay of Fundy. Atlantic Ocean and Bay of Fundy to be contradistinguished. 1st Brit. Stat. p. 8 of 1793. App. 1st Brit. Stat. p. 35. The incontrovertible grounds on which this distinction rests, are so fully set forth in the First British Statement, that it cannot be necessary to go again over them here. Maps, Proclamations and Treaties, all concur in giving a distinctive and special appellation, as well to the Bay of Fundy as to the Gulf of St. Lawrence. The line of separation between this Gulf and the River of the same name is established by the Royal Proclamation of 1763. The American Statement appeals to the Proclamation as furnishing proof of the limits thereby assigned to the River's mouth. By similar authority it is that the limits of the Bay of Fundy, as separated from the Atlantic Ocean, have been established. The Charter of James I. to Sir William Alexander, in 1621, describes the Boundary of Nova Scotia as beginning at Cape Sable, and after extending thence to St. Mary's Bay, crossing by a direct line the entrance of the Gulf to the St. Croix River. In the Commission of Mr. Montague Wilmot, Governor of Nova Scotia, in 1763, the Boundary Line is described as passing "across the 1st Am. Stat. p. 9. App. 1st Brit. Stat. p. 32. 1st Am. Stat. p. 15 of 1793. 1

* See Appendix, No. 5

"entrance of the Bay of Fundy from Cape Sable to the mouth of the River St. Croix." Again, the mouth of the River St. Croix is declared by the Treaty of 1783 to be "in the Bay of Fundy;" the Commissioners under the Fifth Article of the Treaty of 1794, decided that the mouth of the River was at a point in "Passamaquoddy Bay;" and the Treaty of Ghent declares the "Bay of Passamaquoddy to be part of the Bay of Fundy."

In all these Documents the limits of the Bay of Fundy are substantially the same, and quite conformable to the geographical character of the place. The position and limits of the Bay of Fundy being thus clear, and the contradistinction between that Bay and the Atlantic Ocean being equally so in the Treaty, when speaking of the Sea Coast, it follows beyond controversy, that according to the meaning of the Treaty, in this part of it, the Atlantic Ocean begins only where the Bay of Fundy ends, and that the Framers of the Treaty, when thus using the term Atlantic Ocean, had in view that part of the Sea, which lies westward of the mouth of the Bay of Fundy. The American Statement must, therefore of necessity, err, when interpreting the Treaty in such manner as to suppose the Bay of Fundy included in the term Atlantic Ocean, as a general appellation applied to the Sea Coast. The Framers of the Treaty, when describing St. Mary's River as going "down to the Atlantic Ocean," and the River St. Croix as having its mouth in the Bay of Fundy, had, no doubt, particularly in view the Coast of the Atlantic Ocean, which terminates at the Bay of Fundy, where the name of that Bay begins to have its appropriate and exclusive application. And this being the case, as beyond all controversy it was, is it credible that in the very next line of the same instrument the same men should have used the same term of "Atlantic Ocean," intending that it should comprehend the whole Coast together with the Bay of Fundy and the Gulf of St. Lawrence, both of which are particularly marked on the map, and are universally known by their distinctive appellations, and with a similar precision of limits, as the River St. Lawrence itself; these three names being, moreover, all of them used in the Treaty without description, as sufficiently distinguishing the several places which they respectively designate?

In answer to that remark of the American Statement which pretends "that if the Rivers which fall into the Atlantic through a Gulf, Bay, or Inlet, known by a distinct name, are not under the Treaty of 1783, Rivers falling into the Atlantic Ocean, there is not a single River that could have been contemplated by the Treaty as such to which the description applies," it is to be observed, that the mention of *St. Mary's River* is alone sufficient to prove that there are Rivers considered by the Negotiators as discharging into the Atlantic Ocean without the intervention of any Bay or Gulf. It may be added that some of the Bays mentioned by the other Party in support of his argument, are mere enlargements of the mouths of Rivers, and, like Penobscot Bay and Sagadahock Bay, derive their names from the respective Rivers; which names, moreover, are little known beyond the immediate vicinity of the place.

The Treaty Article expressly characterizes Rivers by reference to their mouths. Speaking of the River St. Croix, it has these words: "east, by a line to be drawn along the middle of the River St. Croix, from its mouth in the Bay of Fundy to its source." The River St. Croix, being thus characterized, as a River having its mouth, that is, terminating, in the Bay of Fundy, can never be a River falling into the Atlantic Ocean, between which and the River so described, a certain space, namely, a part of the Bay of Fundy, intervenes. Still less, then, can the River St. John, which falls into the Bay of Fundy considerably to the East of the St. Croix, and which is, therefore, more within the entrance of the Bay, be classed among the Atlantic Rivers specified by the Treaty. On the other hand, St. Mary's River is designated in the same Article as reaching the Atlantic Ocean. For the south boundary line passes "along the middle of St. Mary's River to the Atlantic Ocean;" while it is described, in the same Article, as "*touching* the Atlantic Ocean." Now, if the boundary line passes along St. Mary's River till it *touches the Atlantic Ocean*, it is evident that

there is no interval between the River and the Ocean, but, on the contrary, that where the former terminates, the latter begins. In this manner, we see that the two Rivers differ essentially in that particular characteristic by which the Treaty has distinguished them; and thus two classes of Rivers, comprizing respectively the one and the other of the two individual rivers just named, and both being distinguished from those Rivers which fall into the St. Lawrence, are clearly exhibited in the Treaty.

If the reasons alleged in this argument, taken in conjunction with what was fully urged to the same purport in the preceding Stateemnt, are sufficient to satisfy any reasonable and impartial mind that, in the interpretation of the Treaty, the Bay of Fundy must be considered as separate and contradistinguished from the Atlantic Ocean, there can be no doubt as to the obligation of regarding the Gulf of St. Lawrence and the Bay of Chaleurs as equally distinct and unconnected in any Treaty sense with the main Ocean. Judging from the American Statement, the other party is not prepared to oppose this conclusion, since it is therein observed, that Long Island Sound is "as much a close and distinct Sea, or portion of the Atlantic Ocean, as the *Gulf of St. Lawrence*, and more so than the *Bay of Fundy*."

The Gulf of St. Lawrence, like the Bay of Fundy, not included in the meaning of "Atlantic Ocean,"
1st Brit. Stat. p. 8 et seq.

1st Am. Stat. p. 7.

That Statement, however, contains some remarks on the sense in which the Gulf of St. Lawrence is named in the 3d Article of the Treaty, which must not be passed over in silence. It is there asserted that the Gulf of St. Lawrence is designated in the 3d Article for a special purpose, foreign to the question of boundaries, and that it is further mentioned as a place in the Sea. The words of the article are these: "The people of the United States shall continue to enjoy, unmolested, the right to take fish of every kind on the Grand Bank, and on all other Banks of Newfoundland; also in the Gulf of St. Lawrence, and at all other places in the Sea, where the inhabitants of both Countries used at any time heretofore to fish."

1st Am. Stat. p. 6.

It is perfectly true that the Gulf of St. Lawrence is designated in this Article with reference particularly to the right of fishing, and not to any question comprized in the Second Article. But it is equally true that there is no reason, with respect to that question, why it should have been named at all in the Treaty. That the Bay of Fundy and the Atlantic Ocean are contradistinguished from each other, has been proved to demonstration. Such being the case, the due north line, as will be shewn yet more convincingly hereafter, could not have been intended to intersect the River St. John; and unless the eastern boundary line were to intersect that river, and to pass considerably to the north of it, there would be no question either of its crossing any streams falling into the Gulf of St. Lawrence and the Bay of Chaleurs, or of its terminating at any point immediately in their neighborhood. Yet the Gulf of St. Lawrence, when mentioned in the Treaty, with reference to another subject, is named in a manner which marks its being known as having certain limits, a peculiar character, and separate jurisdiction, and which, in short, distinguishes it entirely from the Atlantic Ocean, except in so far as it is a part of the sea, of which the Atlantic Ocean also is a part.

The Bay of Fundy and the Gulf of St. Lawrence being, therefore, taken as distinct from the Atlantic Ocean, of which, more especially under the limitations of the Treaty, there can no longer be question, it follows, that the Rivers, which fall into those separate and distinct portions of the Sea, must be considered as forming another class of rivers, such as writers* on the topography of North America have in part noticed, and to which the Treaty indisputably points. Of this class of rivers two only are immediately in question, namely, the *Restigouche*, falling into the Bay of Chaleurs, itself joining the Gulf of St. Lawrence, and the *St. John*, which falls into the Bay of Fundy. These rivers cannot, therefore, belong to the class of Atlantic Rivers specified in the Treaty; and, consequently, it is not true that "all the rivers met by the due north line, which do not actually empty themselves into the

The respective Rivers, therefore, contradistinguished also.

* See p. 9, reference to Pownall's topographical description.

1st Am. Stat.
p. 7.

“River St. Lawrence, according to its known limits, are, by the Treaty, considered as “falling into the Atlantic Ocean.”

This is not all : there are other lights to guide us to a true interpretation of the Treaty, and to shew with sufficient clearness what Highlands were meant to be designated in its Second Article.

Boundary line
not to be carried
to the mouth of
the River St.
John.
App. 1st Brit.
Stat. p. 39.

The United States proposed at first the River St. John as a part of their Boundary on the side of Massachusetts. The Line, as described in the instructions of Congress, was “to be drawn along the middle of St. John’s River, *from its source* to its mouth in the Bay “of Fundy.” On Mitchell’s Map the course of the St. John, as to length and general direction, is laid down nearly the same as on the Map A. It appears from the Report of the Committee of Congress, which has been noticed above, that “when the Boundaries of The “United States were declared to be an ultimatum, it was not thought advisable to continue “the War, merely to obtain Territory as far as St. John’s River.” And further, it has been shewn by unquestionable authority, that in the course of the negotiations at Paris, Great Britain claimed as far west as the Penobscot and Kennebec Rivers.

ibid p. 41.

1st Brit. Stat.
p. 17.

Combining these several circumstances, it is perfectly inconceivable that the British Government could ever have intended by the Article, which they ultimately agreed with The United States in concluding, to carry the Boundary Line to the north of the St. John, and by that mean, as it has been since ascertained, to make over to an independent Government a much larger extent of Territory than they themselves retained towards the Coast by adopting the St. Croix as the Eastern Boundary Line.

Further and
more important
reasons for the
same.

The sacrifice on the part of Great Britain would not have been confined to the loss of a certain number of square miles. The direct communication between Nova Scotia and Canada would have been thereby surrendered, and lands in dependence on Canada would have been transferred to The United States, no longer having the character of British Colonies, but that of Independent Sovereignities. So far from Great Britain receiving under the Treaty any compensation for such sacrifices, her Negotiators had already made other sacrifices of no inconsiderable amount in settling the eastern and northern Boundaries of Massachusetts. By consenting to take the St. Croix for a Boundary they had receded from their claims to the Territory extending westward along the coast from that River to the Rivers Penobscot and Kennebec. By consenting to the line of Highlands proposed in the American Instructions, they gave up to The United States all that Territory which is situated between the Highlands, extending along that part of the line, as to which the British and American Commissioners are agreed, and the northern Boundary of the old Province of Maine. The limits of this Province, it is well known, were regulated by Charles the First’s Grant to Sir Ferdinando Gorges, as mentioned in the Statement of the other Party ; and the northern limit, according to that grant, was a line drawn westward from the River *Kennebec* to the River *Piscataqua*, at a distance of 120 miles from the mouth of each River. The head waters of the Kennebec being at a much greater distance than 120 miles from the Atlantic Ocean, a considerable interval was necessarily left between the northern limits of Maine, regarded as co-extensive with the Grant to Sir Ferdinando Gorges, and the above-mentioned Highlands, in which the head waters of the Kennebec are situated. To this intermediate Territory it would have been impossible for The United States to substantiate their claim under the Charter of Massachusetts ; which Colony acquired the territory by purchase. The American Statement has not represented the limits of this territory agreeably to the known undisputed fact ; but the outline of the Grant is traced on Mitchell’s map in strict conformity with its true description.

1st Am. Stat.
p. 13.

Supposing, what is most probable, that the conflicting claims of the two Parties were so balanced, or rather so involved in confusion and obscurity, as to offer no clear and safe principle for their regulation, but that of mutual convenience and conciliation, the Territory intervening between the Rivers St. Croix and St. John was surely but a wretched equivalent for those extensive parts of the British Claim which were given up to the United

States. Supposing, on the other hand, notwithstanding the strong and convincing evidence already furnished to the contrary, that the final adjustment was grounded on some specific principle of right, of what such principle, at all capable of application to the whole extent of disputed Boundary, is there the slightest trace? The charter principle, as we have seen, would have thrown the old Province of Maine, and consequently the northern limits of Massachusetts, in that quarter, considerably to the south of the Highlands. The same principle, applied to the Sagadahock Territory, would have carried those limits, *at the northern extremity of its east Boundary*,* to the River St. Lawrence. The principle of the Proclamation would have confirmed the Line of Boundary between that River, from the point where it is struck by the parallel of 45° north latitude, and Lake Nepissin, as proposed in the American Instructions. A combination of the two principles is equally intellectual to explain what must be termed the anomalies of the Treaty arrangement, on any supposition but the natural and necessary one of its having been grounded on mutual convenience, since neither Charter nor Proclamation could have warranted the Parties in carrying the Boundary line, as it was actually settled to be carried—not, as the latter would have prescribed, to the north of the Great Lakes, nor, as the former indicated, along their southern shores—but through the centre of those inland Seas, and along the mid-channels of their respective water communications.

It is not the interest of Great Britain and her Colonies that is alone concerned in this discussion. A common interest, the interest of the Treaty, and of both Parties, is also at stake.

In an early part of this Statement it was shewn that in the absence of any express principle specially applied to the question of boundaries, except that of settling them so as to prevent future disputes, the general intention of the Treaty, as declared in its preamble, was to adjust them in such a manner as to “secure to both Countries perpetual peace and “harmony” by establishing “a satisfactory and beneficial intercourse” between them, “on “grounds of reciprocal advantage and mutual convenience.” It is evident, with respect to the Boundaries, that nothing was more likely to aid this wise and benevolent object of the Treaty, by preventing collisions, and promoting good neighbourhood between the Parties, than the adoption of a Line which should have the effect of placing the rivers and principal water courses of their respective Territories entirely within the limits of each. The American Statement seems to recognize the justness of this principle, when it observes “that “the essential part of the description of the Boundary consists in that the Line shall divide “the rivers so as to pass between their sources, and *without crossing, in any instance, any “river or branch thereof.”* On this momentous ground, which involves the highest considerations affecting the welfare of human societies, as well as on those which have been previously advanced, is rested the firm moral conviction that the Framers of the Treaty could not possibly have contemplated so entire a departure from the principles of that instrument, as the forming a Boundary between Nova Scotia and Massachusetts, which would have the effect of throwing the upper half of the St. John,—the most important river of the Country,—within the Territory of the United States. Equally difficult is it to conceive that, if they had obtained such an understanding with Great Britain, the American Commissioners, who were naturally more alive to the exclusive advantage of their States, and from long familiar acquaintance with Colonial interests were by no means likely to expose them to risk by any oversight in the wording of the Treaty, should have allowed the term “Atlantic “Ocean,” to remain in its Second Article after the substitution of the St. Croix for the St. John, the proposal of which last mentioned River, “*from its source to its mouth,*” was, to

Other reasons
common to both
parties, for the
time.

1st Am. Sta
p. 22.

* This is explained in the 30th page.

all reasonable appearance, the cause of its first introduction into that Article, in place of the more comprehensive word "Sea," employed in the Proclamation of 1763.

The Highlands intended by the Treaty are to be looked for south of the River St. John.

It follows, of necessity, from the whole of what precedes, that the Highlands intended by the Treaty are to be looked for *south of the River St. John*. The American Negotiators having desisted from their demand of that River, and the British having equally rejected the substituted proposal of deferring the settlement of the Boundary till after the conclusion of Peace, an arrangement carrying with it the consequences of yielding to The United States at once a greater extent of Territory than that which was comprized in the acceptance of the St. John as a Boundary, without any reciprocal advantage to Great Britain, but with results most injurious to her just and necessary interests, and also in direct contradiction to the governing principle of the Treaty, may be fairly, and without hesitation, pronounced to be impossible.

Why the Negotiators did not express that intention still more explicitly in the Treaty.

What reasons may have prevailed with the Negotiators, on the supposition that they intended to designate Highlands to the south of the St. John, as those which the due north line was to meet, not to declare that specific intention by an additional clause of the Treaty, can now be only matter of conjecture. But strong probabilities are not wanting to aid the discovery of the truth even in this particular also.

In the first place, by retaining in the clause respecting Rivers and Highlands the term "Atlantic Ocean," in connection with the limited sense unequivocally attached to it in another part of the same Article, the British Plenipotentiary might have reasonably hoped to preclude any future disagreement on the subject. In the second place, the insertion of a definition of the north-west angle of Nova Scotia, calculated to obviate any embarrassment which might spring out of the use of that term as a known and settled point of departure with reference to the Colonial Boundaries, may also have contributed to satisfy him as to the efficacy of the wording, as it now stands in the Treaty.

It may surely be assumed that the Negotiators meant to define the Boundary in a spirit accordant with the just and liberal views declared in the preamble of the Treaty. If it had been possible to describe the whole Boundary Line with minute exactness, their desire to prevent future disputes would doubtless have led them to do so. But they evidently did not possess the topographical details necessary for such extreme precision. The Boundary was, therefore, of necessity, to be defined in general terms. A glance on Mitchell's Map was sufficient to shew them, that a due north Line could not be drawn from the source of the St. Croix to the supposed latitude of the head waters of the Atlantic Rivers, flowing westward of that River, without a probability of its striking some of the smaller and very inconsiderable lakes or water courses falling into the St. John. To have changed the grand features of their agreement, on account of this petty consideration, would have been unwise; and, at the same time, there was an obvious and disproportionate inconvenience in guarding, in express terms, against a mere contingency of no practical importance. Again, they must have known that a considerable part of the Boundary Line would be traced along the Highlands situated nearest to the head waters of the Connecticut, and immediately dividing the Kennebec from the Chaudière. All Parties agree that the words of the Treaty apply, without shadow or possibility of doubt, to that portion at least of the Highland Boundary. The Highlands, which were *known* to range along the sources of the more eastern Atlantic Rivers, were *believed* to be a continuation of the others. In order to frame a definition more nicely and literally adapted to the varying circumstances of the Line, as thus prolonged, it would have been necessary to obtain an exact knowledge of that part of it, where the change of circumstances was to operate; and this degree of precision, as already observed, was necessarily unattainable from the moment that the source of the St. John had ceased to be in view as the proposed north-west angle of Nova Scotia. The due north Line was intended to strike Highlands to the south of the River St. John. At the point of intersection, the Boundary was to be carried west in such manner as to place all the rivers flowing on

that side of the St. Croix, and consequently Atlantic Rivers, within the Territory of The United States. Towards the other extremity, there was that large portion of the Highland Line, respecting which both Parties are agreed. Upon these data, it is by no means extraordinary that the Negotiators should have fallen into the error (for such the pending difference authorizes us to call it) of supposing that they had sufficiently provided, by the present wording of the Treaty, for the due direction of that part of the Line which was intended to unite the point of departure on the north Line, with the north-westernmost head of Connecticut River, by joining on to that other part of the same Line which *immediately* separates the sources of the Kennebec from those of the Chaudière.

These probabilities, which are not put forward as known undoubted truths, being, nevertheless, such evidences as the nature of the case admits, must have their weight in removing the objection to which they immediately relate, and must contribute, in that respect, to confirm and fully establish the position previously maintained on such just grounds, and by so many cogent and convincing reasons; namely, *that the Highlands of the Treaty were meant to be fixed to the south of the St. John.*

If, on the other hand, it be supposed, notwithstanding so many proofs to the contrary, that it was the intention of the Negotiators to carry the due north line to that point, which the American Statement maintains to be the true north-west angle of Nova Scotia, the silence which they have kept with regard to the intersection of the River St. John is really very difficult, if not impossible, to explain. Such silence is, on that supposition, the more inconceivable, since it must be agreed that a principal object of the Treaty was to separate the rivers along the adjoining part of the frontier, and to place within the Territories of the respective Parties the whole of each class of rivers so separated. The motives and evidences of this intention are so numerous and convincing, that even if it were true, as the American Statement asserts, that no sufficient criterion for determining the direction of the northern Boundary Line is to be found, unless the precise meaning which that Statement assigns to what respects the dividing rivers be received without qualification, there would still be wanting sufficient grounds to justify a decision in favor of The United States. But this imaginary defect of the Treaty is, in truth, the mere offspring of a partial and unwarranted view of its terms and intentions.

There is no longer any real difference respecting the eastern boundary of The United States. The difficulties, which are now experienced, regard their northern boundary, which is to pass along Highlands designated in the Treaty as dividing certain rivers. What rivers they are, which are thus to be separated, has been abundantly shewn above. It has been proved that the Highlands in question were meant to be found south of the River St. John, and, also, that no river east of the St. Croix comes within the class of Atlantic Rivers specified in the Treaty. Hence, it is clear, that in carrying the boundary line westward to the Connecticut, the sources of the Atlantic Rivers are to be left entirely within The United States' territory, and those of the St. John, which intervene between the former and the head waters of the Rivers falling into the St. Lawrence, are to be left within the British line. The American Statement has given to the Treaty expression "dividing Rivers," a narrowness of signification which is by no means borne out by the words themselves. The intention of the Treaty being clear as to the rivers to be separated, and therefore to be left within the territory of the respective parties, any highlands rising above the heads of one set of the rivers to be so separated must necessarily divide those rivers (in this instance the Atlantic Rivers) from the other set of rivers named in the Treaty, although they may not extend equally along the sources of these last-mentioned rivers. If this had not been the opinion of the negotiators, it may fairly be presumed that they would have adopted some more precise term in explanation of their particular meaning, and that the term "Atlantic Ocean" would, with equal certainty, have been exchanged for some other of a more comprehensive sense. To go the length of supplying the supposed omission and of enlarging

Inconceivable why it should not have expressed the contrary, had they meant it.

1st. Am. Stat. p. 5.

The Treaty, on the whole, sufficiently explicit as it is.

Am. Stat. p.

the supposed limitation by a license of construction which cannot be admitted without defeating the general views of the Treaty, as declared by its introductory terms, and further established in the foregoing pages, is a course of proceeding dangerous in its example, and tending to introduce a new and unsound practice in the interpretation of Treaties.

The point of departure for tracing the boundary line is to be found where the due north line drawn from the St. Croix touches the Highlands south of the River St. John. It has been shewn above that the existence of such Highlands was, to all appearance, a matter of general persuasion at the period of 1783, and several years before. That such has since continued to be the impression, there is no inconsiderable evidence to establish.

In the year 1792 the Government of Massachusetts sold, by contract, to two individuals, named Jackson and Flint, certain lands, the limits of which are thus described in a document relating thereto, given in evidence by The United States :—" *Westerly*, by a line "on the east side of the great eastern branch of Penobscot River, at the distance of six "miles therefrom ; *easterly*, by the River Scododiac, and a line extending northerly from the "source thereof to the Highlands ; and, *northerly*, by the Highlands, or by the line described "in the Treaty of Peace between The United States and His Britannic Majesty." From this description of the limits in question it is clear that the northern Boundary of The United States, as determined by Treaty, was to be the northern limit of this tract, and also that, in 1792, the Government of the State of Massachusetts considered the great eastern branch of the Penobscot River as reaching to the Highlands which form that northern Boundary.

On the American transcript of the map A, this tract of land is marked out, but with limits on the east and west prolonged by two straight northern lines across the River St. John to the line of boundary now claimed by The United States, although to the commencement of the straight lines, thus gratuitously added, the limits agree with the terms of the contract. It is not worth while to inquire into the cause of a misrepresentation, which, at least, does not appear to have been derived from the printed maps of the country, since in Greenleaf's map of Maine the limits of Flint and Jackson's purchase appear to be marked out, though without the names, in conformity with the terms of the document quoted above ; the line being therein represented as terminating on the Highlands, in which are situated the head waters of the Penobscot and other Atlantic Rivers.

The "Statistical View of the District of Maine," published in 1816, by Mr. Greenleaf, the American author, whose map has just been referred to, confirms the correctness of the conclusion to which the terms of the above-mentioned purchase inevitably lead. The very explicit passage quoted from Mr. Greenleaf's work, in the 25th page of the First British Statement, permits no doubt as to the fact of there being at least as far east as the head waters of the eastern branch of the Penobscot, and as high north as the head waters of the Restook, a tract of mountainous elevations, answering in every respect to the Treaty term of "Highlands," and connected with the range which is situated immediately between the sources of the Kennebec and the Chaudière Rivers.

It still remains to be seen whether there are Highlands so situated, with reference to those just described, as to offer a suitable place for a point of departure from the due north line, and for this purpose it is only requisite to refer to the Reports of the Surveyors and Commissioners annexed to the former Statement.

There would be no possibility of executing Treaty provisions, such as are now under consideration, if the utmost degree of precision were required, and if no allowance whatever were made for the unavoidable want of an exact local knowledge on the part of the Negotiators. It is one thing to define a boundary in general terms, another to describe it with a minute attention to details. The parties to the Treaty of 1783 did not possess the means of performing the latter office. They could only act upon the general ideas which they had then obtained of the state of the frontier country. They had no reason to doubt

Evidence that the existence of the Highlands south of the River St. John has been generally believed since 1783.

App. No. 1, p. 1.

Actual existence of such Highlands shewn by reports of Surveyors.

that Highlands, in which were situated the sources of the Atlantic Rivers, properly so called, extended across the meridian of the St. Croix, towards the western bank of the St. John. They can hardly be reproached with not having sent a Commissioner from Paris, the seat of their negotiations, in order to ascertain, by actual measurement, the correctness of so reasonable a supposition. They did, however, what an inspection of Mitchell's map was well calculated to suggest. They agreed to form the eastern Boundary of The United States by drawing a due north line from the source of the St. Croix to the Highlands, which the greater length of the course of the Kennebec and Penobscot Rivers, as compared with that of the St. Croix, was likely to render necessary. The details were unavoidably reserved for future settlement by means of an actual survey and delimitation.

It was to be expected that in making that survey and tracing the boundary line along the surface of the country, the localities would not be found to correspond minutely with the idea which had been previously formed of them. Whether it be supposed that the Highlands were intended to have the character of hilly or mountainous heights, or whether they were considered as mere lands, immediately separating the head waters of rivers, it is clear that there was more than one chance against their being found in strict conformity with the terms, in whichever way they might be interpreted, of the Treaty. In one case the due north line might fail to reach any place of sufficient elevation; in the other it might be prolonged, even to the St. Lawrence, without intersecting any spot exactly situated between the head waters of the Rivers specified in the Treaty. The same disappointment might have been anticipated in drawing the north boundary line along Highlands, of whatever designation we suppose them to be. It appears that the peculiar characteristic of the river-heads throughout the disputed territory, is to interlock with each other, and frequently to form into large pools and spreading morasses. The defects in the line might indeed prove so numerous as to operate a decided change in its characteristic qualities, and render it altogether unfit for the application of the Treaty. But if every deviation from the strict rigour of definition,—an occasional break or the intervention of a swamp or valley in the line of Highlands—the want, in fine, of a single link in the chain, is to defeat and nullify the whole design of the Treaty, it will be extremely difficult to conceive by what means any arrangement is to be effected, or how it will be possible to satisfy either the one or the other of the claimants.

It is only repeating the words of the former Statement, to say, that the place, called Mars Hill, is that which Great Britain claims as the point of departure for the northern boundary of The United States, and consequently as that spot which is designated in the Treaty as the north-west angle of Nova Scotia. It appears from the reports of the Surveyors, that the due north line crosses its eastern skirt, or flank, at a distance of about 40 miles from the monument, which marks the source of the St. Croix, as fixed in execution of the Treaty.

There are three points to be considered with respect to this elevation: 1°. Its height as compared with that of the country previously traversed by the north line; 2°. Its position relatively to the Rivers; 3°. Its connection with the western range of Highlands.

With respect to the comparative height of Mars Hill, it will suffice to quote the following words of the American Surveyor: "The south peak is 175 feet higher than the north peak, and about 1000 feet above the general level of the adjacent country." This description is decisive of the superior height of Mars Hill, and the concurrent testimony of the Surveyors shews that no ground equal to it in elevation, by many hundred feet, is previously crossed by the North line.

The situation of Mars Hill, with respect to Rivers, is not to be taken, as the American Statement insists, from the petty streams or rivulets falling into the St. John, in its

immediate neighbourhood. Its principal summits are situated at a short distance westward of the north line, and consequently in the position intended by the Treaty, on that Highland tract, which rises to the north of the Atlantic Rivers, and separates them as well from the Rivers of the St. Lawrence, as from the River St. John and its principal tributary, the Restook. The due north line does not indeed pass over its highest peaks; but it is sufficient for every liberal and effective purpose of the Treaty, that the line intersects the rising grounds which form its elevation from the banks of the St. John.

As to the third point, the British Surveyor, Bouchette, in his Report dated the 21st of May, 1818, observes, that he took "the bearings of the principal range of high-lands extending from Mars Hill to the Catahdin Mountain; the general course of which is N. N. E. and S. S. W., and highly conspicuous for its height." Another of the Surveyors, Odell, states in a report filed the 11th of May, 1819, as follows: "Looking westward from this place (Parks's, near the Houlton Settlement,) which is itself considerably elevated, and is easily seen from the top of Mars Hill, there appears a continued range of highland, the view of which is terminated on one side by Mars Hill, and on the other by the Spencer Mountains." It is needless to make further citations from the reports of the British Surveyors, since the range of highlands, as resulting from their surveys and reports is traced in full on the British transcript of the Map A. The general result of these documents with respect to Mars Hill and the adjacent heights towards the west, may be expressed in the words of the former Statement: "A generally hilly country is found to extend towards the eastern branch of the River Penobscot." This is confirmed by the report of the American Surveyor Loring, dated in December, 1820. It may be added, that the British Assistant Surveyor, Campbell, describes the Highlands where the monument is situated on the height of land between the Kennebec and Chaudière Rivers as extending in a N. E. to E. N. E. direction and consequently tending to communicate with the Highlands at the sources of the Penobscot River. Judging from the observations on this part of Mr. Campbell's Report, contained in the Appendix to the American Statement, the other party is not able to call in question the exactness of his observations as to the abovementioned part of the country.

The foregoing information will hardly warrant us in concluding that the tract or range of highland country stretching from Mars Hill, or its immediate neighbourhood, towards the sources of the Connecticut, is equally continuous and of one unbroken regularity throughout the whole extent of the Boundary Line. But such continuity of height was not to be expected, nor is it necessary for any presumable purpose of the Treaty. It does, however, appear that there is a chain of highlands, not indeed of uniform elevation, but in which the head-waters of the Atlantic Rivers are situated, with the additional circumstance of their partaking generally of a mountainous or hilly character.

It is urged in the American Statement, that the three prepositions "*from*," "*along*," and "*to*," employed in defining the northern boundary line, "are the clearest and strongest which could have been selected for the purpose of declaring that the boundary, thus described, must, *through its whole extent, from its beginning to its termination*, be along high-lands," such as they presume the Treaty to have intended. This remark is, indeed, made on grounds which do not apply to the view taken by Great Britain of the same subject. It is, nevertheless, to be observed, that in two acts of the highest authority connected with this discussion, a Royal Proclamation and an Act of Parliament, the very same prepositions are used in order to describe lines, which have since been discovered to be too imperfect to admit of their being traced in conformity with this description. The Acts alluded to are the Proclamation of 1763, and the Quebec Act. The boundary described in the Proclamation has two evident interruptions in the course of its line, notwithstanding the use of the three prepositions, to which so much efficacy has been attributed. In the first place, the line, which is described as passing along the highlands, and also along the coast of the Bay

App. 1st Brit.
Stat. p. 52.

15id. p. 75.

1st Brit. Stat.
p. 24.

App. 1st Brit.
Stat. p. 146.

1bid. pp. 90, 166.

App. 1st Am.
Stat. p. 43.

Perfect continuity
of the High-
land line not to
be expected, and
unnecessary.

1st Am. Stat.
p. 32.

des Chaleurs to Cape Rosiers, has an intermediate space to travers between the highlands, wherever they may terminate according to the supposition hitherto maintained, and the north coast of Chaleurs Bay, for which no provision appears to have been made by the terms of the Proclamation. Secondly, there is a similar interval between Lake Champlain and the opposite extremity of the Highlands, which do not extend to the shores of that Lake. According to the Quebec Act, the line was to go *from* the Bay of Chaleurs, *along* the Highlands, &c. *to* a point in 45° north latitude, on the eastern bank of the River Connecticut, keeping the same latitude directly west through the Lake Champlain. This amendment of the Proclamation itself occasioned a fresh difficulty, which it was subsequently found necessary to obviate in the Treaty. A line described as passing along the highlands in which the sources of the Connecticut are situated could never, it is manifest, have reached a point on the bank of that river at a considerable distance below its sources. What relates to the want of continuity between the Bay of Chaleurs and the Highlands is the same in the Act as in the Proclamation.

There is a further consideration relating to Mars Hill, which embraces one of the arguments most urged by the United States in support of their line, as identified in their opinion with that of the ancient boundaries, and which it is, therefore, convenient to notice separately.

The Treaty, as we have seen, fixes the point of departure for the Northern Boundary of the United States at a place, where the due north line, drawn from the River St. Croix, touches the Highlands. To that place, wherever it may happen to be, the Treaty has given the name of "*the north-west angle of Nova Scotia*;" and this expression it is, which is in fact the principal, and essentially the sole, foundation of the American claim. The United States have divided their argument into five sections, three of which are exclusively devoted to the question of the old provincial boundaries; while the first and last, which relate more immediately to the interpretation of the terms of the Treaty, are found, on examination, to rest substantially upon the same principle which the others were also ment to establish. In the 1st section there are these words: "Inasmuch as the north-west angle of Nova Scotia ^{1st Am. Stat p. 5.} must, necessarily, be formed by the intersection of the lines constituting the northern and "western boundaries of Nova Scotia, the Highlands, &c. were, at the date of the Treaty "of 1783, a portion of the northern boundary of Nova Scotia." Again, in the same section: "The Highlands, contemplated by the Treaty, are Highlands, which, at a point due ^{ibid.} north from the source of the River St. Croix, divide the Rivers falling into the Atlantic "Ocean from those that fall into the River St. Lawrence; Highlands, extending eastwardly "from that point (which is the north-west angle of Nova Scotia) and continuing for some "distance, at least, in that direction, to divide the Rivers, as aforesaid, so as to form there ^{1st Am. Stat p. 31.} "the northern boundary of Nova Scotia." In the 5th section, the same idea is expressed as follows: "The north-west angle of Nova Scotia is, according to the Treaty, formed by a "line drawn due north from the source of the River St. Croix to the Highlands, which, &c. "That north line being the western boundary of Nova Scotia, the aforesaid Highlands, "which, together with it, form the said north-west angle, being the northern boundary of "Nova Scotia, must, from that angle, extend eastwardly towards the Bay des Chaleurs." These several passages of the 1st and 5th Sections of the American Statement shew clearly that the supposition of a perfect identity between the line, as now proposed by The United States, and the ancient provincial boundary, is at the bottom even of that part of their argument, which turns on a literal interpretation of the Treaty Article. Without this supposition,—which is altogether conjectural, and incapable of satisfactory proof, and the merits of which cannot be fully discussed without unsettling what the Treaty was most certainly intended to settle in a peremptory and conclusive manner,—The United States can make no progress whatever towards setting aside those important limitations, which

Tras meaning
under the Treaty
of the term,
N. W. angle of
Nova Scotia.

the words of the second Article of the Treaty, as already explained, do most undoubtedly convey. They seem to have overlooked an inconvenience and striking objection which necessarily result from this mode of treating the question, namely, that they apply themselves thereby not to the completion of their own boundary, nor to the adjustment of such part of the British boundary line, as corresponds immediately with their own, but to the regulation of other parts of the British boundary,—the northern boundary of Nova Scotia, for instance,—with which they have no right whatever to interfere, and the final arrangement of which is now, as it always has been, wholly and exclusively in the competency of the British Authorities. Such was not the object and intention of the Treaty of 1783, the second Article of which, as we have already proved, concerns the definition of the United States' boundaries alone, and affects the boundaries of the British Colonies only in those parts of the frontier where the territories of the one party border immediately on the territories of the other.

The words "north-west angle of Nova Scotia" were introduced into the Treaty from the article respecting boundaries, drawn up by the American Congress, and proposed to Great Britain by the American Commissioners at Paris. In that article "the north-west angle of Nova Scotia" was coupled with the proposal of carrying the boundary line *along the channel of the River St. John from its source to its mouth*. In other words, it was then distinctly proposed by The United States that "the north-west angle of Nova Scotia" should be fixed at the source of the River St. John, and that a considerable part of their northern boundary line should pass along the channel of that River. It has already been shewn to demonstration, that, in rejecting that proposal,—for the sake of maintaining which (be it remembered) the American Congress had expressed the opinion that it would not be worth while to carry on the war,—Great Britain must obviously have meant to insist upon a boundary line *within* the line of the St. John; but, with reference to that proposal, coupled as it was with "the north-west angle of Nova Scotia," it is natural to inquire by what means the line so proposed was to be reconciled with the line of continuous Highlands from the Connecticut River to Chaleurs Bay, along which the United States pretend that the northern boundary of Nova Scotia, as well as their own, must now uninterruptedly pass in virtue of that same expression in the Treaty.

The truth is, that the words in question are wholly subordinate to the definition which immediately follows them; and the definition was, in all probability, introduced into the Treaty, for the express purpose of guarding against any misconstruction likely to arise from their being retained in the Article, after it had undergone the amendments which were described above. If, as the American Statement asserts, the north-west angle of Nova Scotia was a known undoubted spot, the mere mention of it in the Treaty would have been sufficient, in like manner as the mention of the Bay of Fundy and the Gulf of St. Lawrence by their respective names, without particularizing their limits, suffices to convey a distinct and adequate idea of those two separate portions of the Sea. But it is not a little remarkable, that the north-west angle should have been named without the definition, precisely in that Article, which would have fixed it in a spot altogether and entirely inconsistent with the line now held up by The United States as that which coincides with the line of the ancient boundaries and of the Treaty; and that the definition should have been added to the name of the angle exactly in that other Article, where the name alone is asserted by The United States to have so definite and distinct a signification as to exclude the possibility of any other construction.

In this confusion of circumstances one thing may be affirmed without hesitation; namely, that the position of the north-west angle of Nova Scotia was no more known in 1783, than it is known at this moment. The Charter of Massachusetts, as The United States interpret it, would place that angle on the right bank of the St. Lawrence. The Pro-

1st Am. Stat.
p. 31.

Position of that
angle no more
known in 1783
than now.
1st Am. Stat.
p. 13.

clamation of 1763, and the Quebec Act, interpreted by them, would place it on certain Highlands south of those Rivers which fall into the St. Lawrence. The first proposal of their negotiators at Paris would place it at the source of the River St. John. The fact is, that the north-west angle of Nova Scotia is yet to be formed; and this has been admitted by high American authority. App. No. 2, p. 5

The American Statement appears to have confounded the assumption in theory of the point designated in the Treaty as the north-west angle of Nova Scotia, with its existence in fact, although it is evident that these two ideas are by no means necessarily the same. Even the true position of the River St. Croix, from the source of which the north line was to depart, upon which this assumed point was to be found, was not determined till fifteen years after the conclusion of the Treaty of Peace; and when the Commissioners appointed for that purpose entered upon the consideration of the subject, they found that they had to decide between two rivers, both having claim to the appellation of the St. Croix, and between several sources of that one of the two to which the preference was ultimately given; and further, that, taking the two extreme claims on the east and on the west, the distance between their meridians was no less than 40 miles. Am. Stat. p. 5

From the manner in which the north-west angle of Nova Scotia is mentioned in the Treaty, and the terms in which the north-east angle of Maine is *described* in the same sentence, it might have been supposed in 1783, that whenever the position of the boundary lines should be ultimately settled, there would be a point where the southern boundary of Canada would, in forming the northern boundary both of Massachusetts and Nova Scotia, be met by the dividing line between the two latter Provinces: in other words, that wherever the north-east angle of Maine should be formed, an angle for the adjacent British Province would be likewise determined. That the finding of the latter was to be consequent to, and not to govern the position of the former; that it was a point to be sought, and not a point fixed, is admitted by an authority which The United States will not be inclined to dispute; namely, by Mr. Sullivan, formerly Agent on the part of The United States, before the Commission for determining the true River St. Croix, afterwards Governor of the State of Massachusetts, and also the author of a History of the District of Maine, who states before that Commission that the north-west angle of Nova Scotia "had no place prior to the Treaty of 1783;" App. No. 2, p. 5 "that it is yet to be formed;" and that "this is to be done by forming the north-east angle of the State of Massachusetts." (Maine). The framers of the Treaty wanted a point of departure for the northern boundary line of The United States; and they appear to have thought that the supposed point of contact of the three provinces falling to the south of the St. John, would, when named in the Treaty, sufficiently answer that purpose. The northern boundary line, being intended to limit the territory of The United States on that side, was to be carried westward from the point of departure thus designated, which was necessarily external to the territory of The United States, then first to be acknowledged independent. The north-eastern angle of that territory it was strictly within the scope and competency of the Treaty, as it was also one of its particular objects, to describe. To describe the north-western angle, or any other angle, of Nova Scotia, was *not* within the Province of the Treaty; and it has already been shewn that no such angle existed, except in theory, prior to the conclusion of that Instrument. When, therefore, The United States object to Mars Hill that it is not, as they affirm, connected with a chain of Highlands extending to Chaleurs Bay, they exact a condition not only foreign to the declared and legitimate purpose of the Treaty, but also to the real question which the Arbitrator will have to decide.* Am. Stat. p. 21

* The American Statement asserts, that by the claim of Great Britain to Mars Hill, as the north-west angle of Nova Scotia, it is in fact contended, that that Province has two north west angles, one of which would be the western extremity of the Bay of Chaleurs. In answer to this assertion, it is to be remarked, in the first place, that the United States can have no concern with the bearing of the British claim upon a distant part of the Pro-

Character of
Mars Hill, and
neighboring
Highlands to
the west of it,
sufficient for the
purposes of the
Treaty.

Such being the case, there would be little interest in examining the nature of the country east and north-east of Mars Hill. It is enough to know that Mars Hill is calculated to impart a character of decidedly superior elevation to that part of the country in which it is situated, that the due north line crosses its eastern slope, and that there are appearances of a generally hilly or mountainous tract, marked with occasional eminences of a loftier kind, going off from it in a westerly or south-westerly direction, and allowing the boundary line to be carried along this uneven succession of highlands in such manner as to leave the waters of the Atlantic Rivers entirely within the United States' territory.

Spot claimed by
The United
States as the
only true N. W.
angle of Nova
Scotia.
1st Am. Stat.
p. 30.

According to the American Statement the only spot on the due north Line, capable of answering to the terms of the Treaty so as to constitute the point of departure required for the Northern Boundary Line, is fixed at the point A, in the map A, about 144 miles from the source of the River St. Croix. The line so prolonged intersects the main channel of the St. John and several of its tributary streams, besides intersecting also several other streams whose confluence form the River Restigouche; and it terminates at a place destitute of any marked elevation, between one of the branches of the Restigouche and the sources of a stream falling into the River St. Lawrence, and presumed to be the River Metis.

Highlands
claimed by The
United States as
forming their
true north bound-
ary under the
Treaty.

According to the same Statement the Northern Boundary of The United States is carried from the point thus fixed to the north-westernmost head of Connecticut River, passing all along between the rivers that empty themselves into the River St. Lawrence, and the tributary streams of the River *Restigouche*, of the River *St. John*, and of Rivers which fall into the *Atlantic Ocean*.

The Highlands, which the American Statement describes as passing, without interruption, from the point proposed by The United States as the true north-west angle of Nova Scotia to the north-westernmost head of Connecticut River, are wholly destitute of any marked or conspicuous elevation through, by far, the greater part of their extent. This allegation is fully substantiated in the First British Statement, on the authority of various official reports and Surveys annexed to it.*

1st Brit. Stat.
p. 26 et seq.

The United States, pursuing their idea of identifying the line designated in the Treaty with that which they suppose to have existed previously among the British Provinces, have objected to the adoption of Mars Hill, as the point of departure for the northern boundary line, that it is not in immediate connection with any chain of highlands trending eastward in the direction of Chaleurs Bay. The reasons which induce the British Government to treat

vince of Nova Scotia, whose boundaries it was not the object of the Treaty to define, and the adjustment of which is matter for the consideration of Great Britain alone. This assertion of The United States, however, is unsupported by any proof whatever, unless a line drawn on their Transcript, from Mars Hill to the Bay of Chaleurs, is intended to afford this proof, by shewing, that the western extremity of the Bay of Chaleurs is more north west than Mars Hill. This latter inference, however, perfectly immaterial as it is to the present question, is even altogether unwarranted, by reason of the total uncertainty of the difference of longitude between those two points. It is, likewise, distinctly maintained in the American Statement, that the north-west angle of Nova Scotia intended in the Treaty must be found in the intersection of the western with the northern boundary of that Province, and therefore in the line drawn due north from the source of the River St. Croix.

If objections of the nature of that which is here put forward by The United States, were worthy of being seriously urged in a great question like the present, Great Britain might appeal to the American map as exhibiting, on their own shewing, a direct impeachment of their own case. According to the pretended line of separation between the Provinces of Canada and Nova Scotia there laid down, there would be a part of Nova Scotia lying both further to the north, and further to the west than the point which they claim as its true north west angle.

* A reference to the Reports of the Surveyors clearly disproves the assumption of the American Statement, Am. Stat. p. 24. "that the average elevation" of the ridge along which the American line is claimed to run, from Mount St. Francis eastward to the source of the Metis, may be "supposed" to be equal to the height of that mountain, which Captain Partridge has estimated at 1037 feet. We do not indeed find, that any land at all approximating to it in height has been observed along the whole of that distance, and there is certainly no "ridge still more elevated," near the source of the Metis.

this objection as irrelevant have been stated above, and it has not been thought necessary to go into the examination of a fact, which, if it were even established on indisputable authority, would, in their opinion, be entitled to no weight in the decision of the point at issue. But since The United States appear to think that the continuation of the highlands eastward of the due north line is so essential to a fulfilment of the terms of the Treaty, there may be some interest in ascertaining how far the line which they themselves claim, is calculated to fulfil this condition. The line which they claim is, in fact, no other than the boundary line which they suppose to have existed as between Canada and Nova Scotia in virtue of the Royal Proclamation of 1763. But that line, it is well known, cannot continue along the highlands according to the condition on which The United States insist. It must leave those highlands, in order to pass along the north coast of the Bay des Chaleurs. In this manner it is evident that whatever may be the character of the country in a direct line between Mars Hill and Chaleurs Bay, the line claimed by The United States is defective in that very quality to which they attach so great a degree of importance.

It has been already shewn and fully established in the former Statement, confirmed by what is urged in the preceding pages, that the River *Restigouche* and the River *St. John* are not classed by the Treaty among the rivers falling into the Atlantic Ocean, and consequently that The United States, who maintain that the Highlands designated by the Treaty must be those which *immediately* divide the St. Lawrence Rivers from those of the Atlantic Ocean have failed to substantiate their claim in that respect. The consequences involved in the admission of that claim, as well with regard to the general principle and purview of the Treaty, as relatively to many important interests of the British Colonies, which would be thereby prejudiced, without the extension of any corresponding benefit to the United States, are such as to call for the clearest proofs and the most irresistible demonstration. But far from this being the case in the present instance, it is manifest, that in order to produce even an appearance of consistency between the American Claim and the letter of the Treaty, one of the principal limitations of that Treaty must be wholly set aside, and even its very terms submitted to a forced and unnatural construction, directly opposed to the sense which is incontrovertibly attached to them in other parts of the same Article.

That the Bay of Fundy and the Atlantic Ocean are contradistinguished from each other and confounded together in one and the same Article of the Treaty; that the River *St. John* which empties itself into the Bay of Fundy, and the River *Restigouche* which empties itself into the Bay of Chaleurs and through it communicates with the Gulf of St. Lawrence, fall into the Atlantic Ocean in the sense and meaning of the Treaty; that the word "Highlands" is wholly unconnected with the idea of height otherwise than as it respects the separation of rivers; that the British Plenipotentiary, after declining the offer of the *St. John* as a Boundary, consented to give up the half of that River together with a large territory north as well as south of it to The United States; that the principle, declared in the Treaty, of securing perpetual harmony and beneficial intercourse between the two Parties, would receive its intended application by dividing the principal rivers of the Highland Country in such manner as to lay the seeds of "future discord" between the Parties; are among the propositions in virtue of which the claim of The United States can alone be made good in opposition to that of Great Britain.

The United States, in supporting that claim, have labored to establish not only that the Boundary Line designated in the Treaty is identical with that which subsisted between the British Provinces of Nova Scotia, Quebec, and Massachusetts, previous to the War of Independence; but further, that the Line, which they now propose, is identical with the one and with the other of those two Lines. It has already been proved, in treating of that point which the United States have claimed as the true north-west angle of Nova Scotia, that any such identity between their line, and the supposed line of the ancient

Consequences involved in the confirmation of the American Claim.

Ascertained that the line claimed by them is identical with the old provincial line, and the Treaty line. 1st Am. St. p. 19

provincial boundaries, is mere matter of conjecture. In going into this question of the ancient Boundaries The United States have not been able to conceal the inconvenience, and indeed the insurmountable objections attached to such a discussion at the distance of forty-six years from the conclusion of the Treaty. Their Statement disavows their having any intention to discuss "the respective rights or pretensions of the Parties on a subject which has *been definitively settled.*" It was, in truth, so clearly the intention of the Treaty to settle the Boundaries both peremptorily and definitively, that the argument advanced by The United States with reference to what those Boundaries were, as between the several British Colonies before the War of Independence, must be considered as tending, however undesignedly, to counteract that wise and salutary intention. The Treaty itself, as amply shewn before, is silent on this subject. It introduces the definition of the Boundaries by stating it to be "*agreed and declared*" that they "*are and shall be*" as follows. Such are not the words which Parties meaning to confirm ancient Boundaries would have chosen. If the framers of the Treaty had intended to adopt any line of demarcation supposed previously to exist, they might have satisfied themselves with running a line due north from the St. Croix River to the Southern Boundary of the Province of Quebec; but they were resolved not to trust to any such vague and arbitrary line of Frontier, but to establish peremptorily a new line, which, whether it might or might not coincide with any supposed former line, should, in accordance with the principle laid down in the beginning of the second Article of the Treaty, prevent all disputes in future on the subject of the Boundaries of the United States.

In maintaining the fact of the silence of the Treaty as to ancient Boundaries, and considering that question as foreclosed by the authoritative decision contained in its Second Article, there is no intention of asserting on the part of Great Britain that no reference whatever was made to the ancient Boundaries in the course of the negotiations which terminated in the Peace of 1783. There is no difficulty in admitting that the American proposal as to Boundaries, which was subsequently transferred with several important alterations to the Treaty, derived the greater portion of its terms from the Royal Proclamation of 1763. The correspondence of the American Commissioners further shews that, at least, on their part, the Charter of Massachusetts was brought forward at some period of the negotiation in support of their pretensions. It does not indeed accord with the situation of the Parties at that time to suppose that The United States could ever have thought seriously of insisting on the acknowledgment, by Great Britain, of a wider extent of territory than they were understood to have possessed, in virtue of some principle or other, as British Colonies.

But these admissions are perfectly consistent with what has been already asserted on clear specific evidence, namely, that the two Parties, in proceeding to a final adjustment of their claims, did not agree to decide those claims on any fixed principle of right, but ultimately determined to adjust them by a peremptory declaration founded on mutual consent and mutual convenience, and the interest, common to both, of preventing future disputes and collision. The American Statement itself, in asserting that it was the intention of the Parties to the Treaty of Peace "to confirm the boundaries of the States and of Massachusetts particularly, as they had been established when British provinces," has felt the necessity of qualifying that assertion by the saving clause "*as far as practicable.*"

A brief review of the principal documents which are more particularly described in the second Section of the American Statement will, indeed, be sufficient to shew that the negotiations might have been protracted to an indefinite period, if those who conducted them had not taken the determination of adjusting their differences on the only principle adapted to their real interests, and to the new position in which the parties were placed towards each other.

Sir William Alexander's Grant, which was not in the recollection of either Mr. Adams or Mr. Jay when they were examined on oath as witnesses under the St. Croix Commission, and which in former discussions respecting boundary under the Treaty of 1783 The United States' Agents have vehemently rejected, carries the western Boundary of Nova Scotia up to the westernmost source of St. Croix River, and thence to the River St. Lawrence by a line extending towards the north, and joining the nearest spring or head stream emptying into that River. According to the same Grant, the northern boundary of Nova Scotia was to pass along the southern coast of the River St. Lawrence to Cape Rosiers.

The terms of the Grant would not bear us out in supposing that the western Boundary of Nova Scotia was to be formed by a *due north* line. The only positive circumstances to be collected from them as guides for our opinion, are, that the Line between the two sources specified therein shall be a straight one; and that the source communicating with the St. Lawrence shall be the nearest. On looking to the map we instantly perceive that these guides might lead us to head waters of the River Chaudière as being the nearest to the point of departure of all the sources north of it falling into the St. Lawrence. But, without presuming to intimate that such was the real intention of the Grant, dating, as it does, from a period when the face of the country was wholly unknown, we feel ourselves justified in pointing out the vagueness of its terms, as fairly acknowledged in the American Statement, and inferring how extremely difficult, or rather impossible, it would have been for the Negotiators of the Treaty to have fixed the Boundaries between two Independent States, in conformity with definitions so loosely worded as to involve the most unexpected contingencies.

A line extending from the source of the St. Croix "towards the north" to the nearest part of the St. Lawrence would, at all events, strike that river, owing to the obliquity of its course, far to the west of that point where a *due north* line would intersect it. A reference to the map will make this clear. It must not be forgotten that the Commissioners under the 5th Article of the Treaty of 1794, in deciding which was the true St. Croix, adopted the northern stream, to the exclusion of the western. Thus the variations of this one Grant alone offer four several north-west angles of Nova Scotia. The western stream being the one named in Sir William Alexander's Grant, the preference of the northern stream must surely invalidate the authority of the Grant as a *binding* designation of the boundary of Nova Scotia; and at any period subsequent to the Proclamation of 1763, Sir William Alexander's Grant is altogether irrelevant as to the northern boundary of that province.

The Charter of Massachusetts, dated in 1691, does not mention the territory of Sagadahock, which according to the Duke of York's Grant extended by its eastern and western limits to the River St. Lawrence. It annexes to the Province of Massachusetts only "those lands and hereditaments lying and extending between the said country or territory of Nova Scotia and the said River of Sagadahock." Agreeably to these words, the northern limit of Sagadahock, as annexed to Massachusetts, would be a line drawn obliquely from the source of the Sagadahock or Kennebec River to the point of intersection between the western boundary of Nova Scotia and the south bank of the River St. Lawrence. Besides the considerations arising out of this circumstance, it is to be remembered that the right of Massachusetts to retain any part of Sagadahock, at least that part of it which lies east of the Penobscot River, has been continually questioned and denied by the British Government.

The Royal Proclamation of 1763, of which the Act of Parliament called the Quebec Act is a mere paraphrase as to that part of the boundary still in dispute, extended the limits

of Canada considerably to the south of the St. Lawrence. According to that Proclamation the northern boundary of Nova Scotia, regulated by the southern boundary of Canada, would agree with the following description : "the line crossing the River St. Lawrence and "the Lake Champlain in 45th North Latitude passes along the highlands which divide the "rivers that empty themselves into the said River St. Lawrence from those which fall into "the Sea, and also along the north coast of the Bay des Chaleurs." To the line thus described the American Statement has attributed a degree of precision and unbroken continuity, which its application to the known circumstances of the country does not warrant. A line, of which the conditions are that it pass along the highlands, as traced by The United States on the principle of a supposed identity between the line now claimed by them and the ancient boundary line of the Provinces, and also that it pass along the north coast of the Bay des Chaleurs, cannot possibly be continuous "from its beginning to its termination." The American line prolonged in an easterly direction would extend to Cape Rosiers, leaving an interval of more than half a degree between its own course and the north coast of Chaleurs Bay ; and supposing the line to be carried along the coast of Chaleurs Bay, agreeably to the terms of the Proclamation, a considerable part of it must necessarily pass, before it reaches that bay, not between rivers falling on one side into the St. Lawrence and on the other into the Sea, but between the streams which fall into the Bay of Chaleurs only, and in a direction nearly at right angles with the direction of the line prolonged to Cape Rosiers. The truth is that the line described in the Proclamation was never put to the test of a practical application ; nor did the circumstances of the country require that it should receive a more fixed and positive character throughout that central portion which intervenes from the Bay des Chaleurs to the dividing highlands situated immediately between the sources of the Kennebec and Chaudière Rivers. On the Bay des Chaleurs there were settlements connected with the fisheries ; at the other extremity of the line settlements were also to be found ; and it was therefore desirable to provide for an actual delimitation relative to the rights of provincial jurisdiction in both those parts of the country. But the intermediate space was a wilderness destitute of all inhabitants except the Indians ; and the British Government had therefore no adequate motive for regulating the Boundaries of provincial authority throughout a region so little known at that time, and of which the interests were not as yet even partially developed.

Moreover, The United States cannot, with any pretence of right or reason, appeal either to the Proclamation or to the Quebec Act. The American Congress, when engaged in weighing the conditions of peace, reprobated both the one and the other, as acts of oppression trenching on their rights, and to be reckoned amongst the causes of their Revolution.

Such are the vague and conflicting documents, by means of which The United States have endeavoured to establish that two-fold proposition which forms the basis of their whole argument, namely, that the boundary defined in the Treaty was intended by the Negotiators to be identical with that which they conjecture to have existed previously as between the British Provinces, and that the line traced on their transcript of the Map A, and now claimed by them, is identical with those two lines. In other words they have attempted an impossibility by means of a discussion which they acknowledge to have been definitively closed by the Treaty of 1783, and of which the records of the negotiation and the Treaty itself offer no traces to warrant their conclusion, that the confirmation of a pre-existing boundary line was the object and intention of the Article respecting boundaries. The attempt to establish this proposition is termed an impossibility, because it has been proved in the course of this inquiry, that no such line did, in fact, exist before the Treaty of 1783, in the sense presumed by their Statement ; that the identical line now claimed by them could not possibly coincide with that line, if it had really existed ; and that the documents, which

Vagueness and contradiction of the documents considered above.

they have produced in support of their pretensions, are unfit, either singly or collectively, to furnish the basis necessary for its establishment.

With respect to that part of the American Statement which reasons upon the renewal of the Duke of York's Grant in 1674, the opinion of the British Law Officers in 1731, and the communications alledged to have taken place between the General Court of Massachusetts and their Agent in London in 1764, it is sufficient to observe that it results from the whole series of circumstances, even as stated therein, that the claims of Massachusetts were objects of doubt and occasional resistance during the whole period which elapsed between the date of the new charter and the conclusion of the Treaty; that the conflicting claims were never definitively settled before the separation of the thirteen Colonies from the Mother Country; and that both parties thought themselves at liberty to advance their respective claims, in their full extent, during the negotiations, whatever may have been the principle by which it was then sought, on either side, to substantiate those claims. It was proved before to demonstration that, far from any principle of right having been declared as the basis of the settlement of boundaries consigned to the Treaty, there are strong and explicit indications, as well in the Treaty itself as elsewhere, of that settlement having been founded on views of convenience and advantage common to both Parties. To embark at this late period in a critical disquisition of the terms employed, or the circumstances related by Mr. Mauduit, who, like Franklin in times still nearer to those misunderstandings which terminated in the separation, was Agent in London to the local authorities of that very Province where the war of independence first broke out, could by no possibility be productive of any advantage commensurate with the labour and inconvenience of so unseasonable a research.* In order to pursue the inquiry with the slightest prospect of utility, it would be indispensable to comprize the previous discussions, which had taken place during the greater part of a century between the French and British Governments under the often contested operation of the Treaties of Breda and Ryswick. This, doubtless, was one of the considerations which justly operated on the minds of the negotiators in 1783, to restrain them from grounding their adjustment of the disputed part of the boundaries on any declared principle of right; and the American Statement has itself recognized the wisdom of that determination, by abstaining with equal prudence from going into the question of right either as between France and England, in times anterior to the final cession of Nova Scotia to the British Crown, or as between Great Britain and the chartered British colonies exclusively, however essential the discussion of those questions must necessarily be deemed to the complete establishment or complete refutation of their main proposition on the subject of ancient boundaries.

There are two points which still remain to be briefly noticed.

It is alleged in the American Statement that all maps, comprehending the disputed territory, which are known to have been published between the periods of 1763 and 1783, and of which copies are now to be procured, concur in carrying the boundary line, as described in the Royal Proclamation, along those Highlands to which the claim of the United States particularly applies. In answer to the inference, which the United States have drawn from this supposed coincidence, it is to be observed :

* It may be well, however, to observe in this form, that Mr. Mauduit's Letter shows satisfactorily how little the northern limits of Massachusetts were at that time known, and how little weight is to be attached to the reasoning in the American Statement respecting the narrow tract alluded to in that letter. The northern boundary of Massachusetts east of the River Kennebec is, by the most favourable interpretation of the Charter, a line from the source of the River Kennebec to the point where the Nova Scotia boundary strikes the St. Lawrence. The Massachusetts Rivers which were to be secured to that Colony can be no other than the Penobscot and Kennebec Rivers.

Claims of the Colony of Massachusetts on this subject continually questioned and resisted by the Mother Country. Am. Stat. p. 12
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Am. Stat. p. 12

Futility of the map evidence adduced by The United States. Am. Stat. p. 26

Am. Stat. p. 14.

1°. That in the maps referred to, the highlands in question are represented by a line of visible elevation contrary to the true character of the country, as since ascertained.

2°. That in some of these maps the line of visible elevation, so represented, is made to intersect the waters, either of the St. John, or of the St. Lawrence, and in some, even of both, disproving thereby any intention of its having been traced upon the principle of separating those waters.

3°. That no maps are to be received as *authority* but those, viz. Mitchell's Map and the Map A, which have been expressly agreed upon between the respective parties.

4°. That, notwithstanding some differences of little consequence, when taken with reference to general purposes, the Maps brought forward by The United States are so evidently copied, the one from the other, that no additional evidence can be safely derived from their coincidence.

5°. That the selection, on the part of the Negotiators, of Mitchell's map, which was published before the Proclamation of 1763, in preference to those maps which pretend to give the line described in the Proclamation, contributes materially to show, that the line in question was not that on which the boundary, as defined in the Treaty, was meant to be established.

The other point remaining to be noticed is the state of actual possession, which, however, has been so amply discussed in the former Statement, and so lightly touched upon in the American argument, that little more than a mere reference to it is deemed sufficient on this occasion. It will rest with the Arbiter to determine whether the facts and evidences, adduced on that subject by the British Government, partake more largely of the obscurity and insignificance attributed to them in the American argument, than much of the testimony brought forward by The United States themselves, for the support and vindication of their claim, may fairly be presumed to do. Among the considerations essential to a just and satisfactory decision of this complicated question, it never can be deemed immaterial that, whereas the establishment of The United States' claim would have the effect of dispossessing the British provinces of a territory proved to have been in part* always under the jurisdiction of Great Britain, and in part† actually occupied by British settlers, the confirmation of the British right, as claimed in this and the preceding Statements, would be unattended with the separation from American jurisdiction of a single citizen of The United States settled in that country before the period of the Treaty of Ghent.

It is on this ground as well as on those of a yet more important description, which have been urged and developed on behalf of Great Britain, in both the Statements to be now submitted to the Arbiter, that the British Government look forward with confidence to a favourable adjudication of their claim.

In an earlier part of this Statement it was observed, that, by carrying the boundary line to the north of the River St. John, the prejudice thereby occasioned to the British Provinces would not be confined to a mere loss of territory. What has been just stated respecting the point of actual possession confirms the truth of that observation. The extensive Fief of Madawaska, which was granted several years before the Charter of Massachusetts, and which has been held uninterruptedly under Canadian jurisdiction to the present day, would be thereby transferred to The United States, whose claims to territory, during the negotiations of 1783, could never for a moment have been supposed to extend

* The Fief of Madawaska—1st. Brit. Stat. p. 20.

† The Madawaska Settlement—1st. Brit. Stat. p. 23.

Actual state of possession would be disturbed by the admission of the American claim and confirmed by that of the British.
Am. Stat. p. 29.

Recapitulation, exhibiting the general conclusions resulting from the whole argument.

beyond their rights when clearly established as British Provinces. The British Authorities would also be thereby called upon to surrender a jurisdiction which they have continually exercised as far as the Great Falls of the River St. John from the earliest period at which any settlements have been formed in that part of the country. British subjects holding property within the same territory, and who have held it in uninterrupted succession from the period of 1763, would be compelled either to resign the possessions of their family, or to retain them under a Government to which they owe no natural allegiance.

Nor would these be the only prejudicial consequences resulting to Great Britain from the proposed transfer of territory to The United States. It is well known to what degree the direct communication between Quebec and New Brunswick would be thereby impeded. How far the communication between one part of Canada and another,—between Quebec, for instance, and the settlements at Gaspé,—would be rendered more difficult by the same award, may be collected from Bouchette's *Topography of Canada*, a work produced in evidence on this occasion by the United States.*

It may be doubted whether the anticipation of so much detriment to British interests, though unattended with any corresponding advantages to The United States, and evidently calculated to defeat the most enlightened intentions of the Treaty, as explained before, would alone justify a departure from the strict rule of right, supposing it to be made clear in favour of the United States. But in proportion as the above-mentioned consequences are evident, it is difficult to conceive that the British Government could ever have lent itself to an arrangement from which those consequences must naturally have been expected to flow; and the stronger, therefore, is the presumption that the acknowledgment by Great Britain of the independence of the United States was felt to impose upon her the duty of carrying her claims, whatever they may have been, to the utmost extent warranted by principles of equity and considerations of mutual convenience, in order to protect the interests and to secure the rights of her remaining Provinces.

Presumptions, however probable, are not the sole foundations of the British claim. The conclusions of the First Statement have been confirmed in the foregoing pages, by argument and evidence of the clearest description. It has been proved, that the rivers designated in the Treaty are not those which the United States insist upon, in virtue of an interpretation necessary indeed to the prosecution of their argument, but wholly unwarranted by the letter, context, and spirit of the Treaty. It has also been proved, that the Highlands, which they maintain to be the Highlands intended by the Treaty, exclusive of all others, agree neither with the specific terms of the treaty nor with the intention of those who framed it, as manifested by the general tenour of that instrument, and by the circumstances which accompanied its negotiation. It has been shewn to demonstration, that the north-west angle of Nova Scotia was totally unknown in 1783, that no provincial boundary line had been acknowledged, ascertained, or even existed for any practical purpose, at that time, between the western extremity of Chaleurs Bay, and the Highlands situated at the heads of the Kennebec and Chaudière Rivers, and consequently that the supposed identity between that line and the line now claimed by The United States is a mere illusion, resting on no positive foundation whatever. It is essential to bear in mind, that these last mentioned facts are deducible from the leading evidence and documents exhibited by the United States themselves, in a part of their argument, which opens a discussion foreclosed by the Treaty, and into which the British Government feel that they cannot enter at this late period, without compromising the very objects and principles which it was the main purpose of that Treaty to settle conclusively, and without committing the extreme inconsistency of doing, fifty years

* Bouchette's *Topography of Canada*, p. 587.

after the signature of the Treaty, that very thing, which, during its negotiation, was peremptorily refused on the part of Great Britain, namely, reserving for subsequent adjustment "*the boundary between that part of the State of Massachusetts Bay, formerly called the Province of Maine, and the Colony of Nova Scotia, agreeably to their respective rights.*"

On the other hand, it has been established by proofs, sufficient to satisfy any reasonable and impartial mind, that the rivers, described in the Treaty, as falling into the Atlantic Ocean, are entirely distinct from those which fall into the Bay of Fundy or the Bay of Chaleurs; That the Highlands designated in the Treaty, are those which lying to the south of the River St. John, trend westward from the due north line drawn from the source of the St. Croix; and, finally, that the line claimed by Great Britain, as passing along those Highlands from the point called Mars Hill, is not only more consistent with the precise terms of the Treaty, than any other line hitherto proposed, but is calculated to fulfil in every important respect the declared as well as the presumed intentions of the Treaty, leaving within the territories of either power the whole of those rivers, of which the mouths are situated respectively therein, and in this manner providing most effectually for that great principle of the Treaty which has been already pointed out, that is to say, the advantage and convenience of both parties.

SECOND BRANCH OF DIFFERENCE.

Second Question—north-westernmost head of Connecticut River.

The second point of difference referred to arbitration under the Convention concluded between Great Britain and the United States, on the 29th of September, 1827, comes next to be considered.

The second article of the Treaty of Peace concluded between those Powers in the year 1783, after describing the Highlands, along which the northern boundary of The United States was to be carried, adds, that the boundary line was to extend "*to the north-westernmost head of Connecticut River,*" and "*thence down along the middle of that River to the 45th degree of north latitude.*"

British Claim. 1st Brit. Stat. p. 29.

In the first British Statement it has been claimed, on the part of Great Britain, that the boundary line in question should be carried to the source of the north-westernmost stream, which flows into the uppermost of the Lakes above Connecticut Lake, up to which the Connecticut River is known by that distinctive appellation; and that from thence the line should be traced down along the middle of that River to the 45th degree of north latitude, such as it is exhibited on the official Map A.

The grounds on which that claim has been rested, are, first, that the river, which issues from Connecticut Lake, now bears, and has always been known by the sole appellation of Connecticut River; and, secondly, that, as no stream, which joins the Connecticut River below where it is known by that name, can with propriety, or according to geographical practice, be taken for the Connecticut River; so, it is certain that no head-water of such stream can be taken for a head of the river itself.

American Claim.

In opposition to the British claim it is contended, on the part of The United States, that the north-westernmost head of Connecticut River intended by the Treaty, is either a certain head of a stream called Hall's Stream, or one of another stream, called Indian Stream, both which streams fall into the Connecticut or maine Connecticut River, from the

north; the former at a short distance above or below the 45th degree of north latitude, according as the real situation of that parallel, or its supposed situation agreeably to the survey of 1772, is taken, and the latter between two or three miles, more or less, according as the one or the other of those principles is adopted, above the same parallel.

The grounds upon which this counter-claim of The United States is maintained, are various, but they are all reducible to one, namely, that the "head of Connecticut River" intended by the Treaty is the head of the north-westernmost branch falling into that river, without reference to the specific appellation, or superior volume and length of the main river above its confluence with that branch.

It is evident that in this proposition two terms essentially different from each other, are confounded together. Hall's Stream, and Indian Stream, are *branches* of the Connecticut River, *each having its own peculiar heads or sources*. The Connecticut River has also its heads or sources independent of them, and it is, no doubt, the most north-westerly of these last-mentioned sources or heads, that is "the north-westernmost head of Connecticut River," which the framers of the Treaty intended to designate.

In the former Statement it is remarked that no one would think of looking for the heads of the Rhine at the sources of the Moselle and Maine, though both these rivers are tributary to the Rhine in the same manner as Hall's Stream and Indian Stream are tributary to the Connecticut, but "that they must be looked for in the range of the St. Gothard Mountains," where the several heads of the Rhine, to whatever point of the compass they may be referred, are alone to be found. The same observation may be applied with equal truth to the Mississippi, the Ohio, and the Missouri. The waters of these three great rivers of the North American Continent finally unite in one channel, and reach the Gulf of Mexico under the common name of Mississippi. But each of them has its own heads and sources distinct from those of the other two. On Mitchell's map the sources of the Ohio are laid down by name a little to the south of Lake Ontario; and the heads of the Mississippi, of which the precise situation was then unknown, are pointed to in equally express terms at a distance of nearly thirty degrees of longitude to the west.

In treating this question the United States have fallen into an error of the same kind as that which led them to confound the Bay of Fundy with the Atlantic Ocean in discussing the former point of difference. Except where different branches of a river bear the same name, with some distinctive addition applied, as in the case of the Penobscot, to each branch, the name which is borne by a river at its mouth, accompanies the main channel, and the main channel alone, as it is traced upwards into the country. Wherever the river forks, the name, if it be not altogether lost, as in some peculiar instances, adheres to that branch which exhibits in the strongest degree the characteristics of the river below the confluence, and the length of the channel so named constitutes the river to which the name applies. It has already been shewn, that the heads of a river are not to be confounded with its branches, which have separate heads of their own, and, in the particular case now under discussion, distinctive appellations. The branches terminate at their junction with the main river.

If the principle thus offered for ascertaining the true north-westernmost head of Connecticut River be set aside, and the principle maintained in the American Statement, namely, that of all the streams tributary to the Connecticut, the absolute north-westernmost is that which the Treaty requires, be adopted in its place, the possibility of carrying the Treaty into execution becomes uncertain and precarious. The north-westernmost stream being determined without limitation, according to its bearing with respect to the main river, may join the latter below the point at which it is intersected by the parallel of the 45th degree of north latitude. It was well known to the negotiators of the Treaty in 1783.

Terms "Head" and "Branch" confounded in the American Argument.

1st Brit. Stat. p. 29.

Hall's Stream, as considered in 1783, excluded from the intention of the Treaty.

1st Brit. Stat.
p. 30.

as admitted by both Agents, that the case here supposed would actually occur with respect to Hall's Stream. In the former Statement, it is mentioned, that the surveyors employed in 1772 by the provincial governments of New York and Quebec to trace the parallel of the 45th degree of north latitude from Lake Champlain to the River Connecticut, crossed Hall's Stream at some distance above its mouth, and marked the termination of their line at a point on the western bank of the Connecticut, where a post still exists to mark the spot. This circumstance is the more important, as those doubts which have since arisen respecting the accuracy of that line, and which have occasioned new operations for surveying and marking it, were not then in existence. The Treaty having stipulated that the above-mentioned parallel should be drawn from the middle of Connecticut River, and the framers of the Treaty being well aware that the parallel in question intersects that river above Hall's Stream, it is clear that no head whatever of Hall's Stream could have been in their contemplation as the north-westernmost head of Connecticut River.

Also Indian
Stream.

Hall's Stream being thus excluded from the purview of the Treaty by the known situation of its mouth, it remains to be considered whether Indian Stream, which The United States have put forward to take the place of Hall's Stream, in the event of this latter being set aside, has any better claim to preference under the terms of the Treaty. Indian Stream can only be entitled to preference upon one of these two principles, namely, that it either is absolutely the most north-western tributary to the Connecticut, or that it is the Connecticut itself. Now, it cannot be taken for the River Connecticut, because it is not known by that name, but is, on the contrary, known by another appellation, besides being of inferior breadth to the main river: and that it is not the north-westernmost tributary to the Connecticut is clear, because Hall's Stream has been ascertained to have its sources further to the north-west, in an absolute sense, than those of any other branch communicating therewith.

Also Perry's
Stream and
others.

It follows, therefore, that no head of Indian Stream has any title whatever to being adopted as the north-westernmost head of Connecticut River intended by the Treaty. And it is further evident, that what is true of Indian Stream, is true with respect to Perry's Stream, and to every other stream, except Hall's Stream, falling into the Connecticut.

The result of this reasoning, which is too manifest to admit of any doubt, is, that the whole question lies between the heads of Hall's Stream, and the heads of that river which is claimed by Great Britain, to the north of Connecticut Lake. But it has already been shewn that Hall's Stream is excluded from the intention of the Treaty by the known situation of its mouth, and consequently it can be only necessary to consider its heads upon the supposition of the new parallel of latitude, as claimed by Great Britain, being adopted, and the adoption of this new parallel being allowed to have a retro-active effect upon the provisions of the Treaty.

To the admission of any such consequence of the rectification of the parallel it must, however, be objected that Hall's Stream and Connecticut River having been known to the negotiators as two separate objects, the wording of the Treaty is decisive as to their intention of excluding the former, and since the execution of that intention must necessarily be the end and aim of the present discussion, there is no reason whatever for any change on the above-mentioned ground.

Hall's stream
under every con-
sideration incon-
sistent with the
Treaty.

Supposing, nevertheless, for the mere sake of argument, that Hall's Stream had not been excluded by the manifest intention of the Treaty, the reasons for giving a preference to the river claimed by Great Britain, are still of the most convincing kind.

The terms of the Treaty are, that the boundary line shall be carried "to the north-westernmost head of Connecticut River, and thence down along the middle of that river to the 45th degree of north latitude." The question is, therefore, which of

the two rivers claimed respectively by Great Britain and the United States is most in accordance with this description.

The Treaty having expressly designated by name the river down which the boundary line is to pass, our first inquiry must be directed to ascertain which of the rivers in question accords with the Treaty in that particular. Now, as to this point there can be no doubt with respect to those parts of the two rivers which were intersected by the parallel of 45 degrees north latitude, as traced by the surveyors in 1772. It is manifest, that if Hall's Stream had been considered as the main Connecticut River, the line would not have been carried across it to the western bank of that River, which is claimed by Great Britain as the true one. The very circumstance, indeed, of Hall's Stream having been then known by that name, while the principle channel had no name at all, if not that of Connecticut, or main Connecticut, would be sufficient, in the absence of the positive proof above-mentioned, to indicate the real state of the case. The reports of the surveyors concur in representing the branch claimed by Great Britain as the principal one; and it is therefore not to be conceived, that it would have been left without a distinctive appellation, while its several tributaries were known by their respective names. No other name has been ever assigned to it but that of Connecticut, or main Connecticut River. The former of them, however, was expressly given to it in 1772, by the surveyors employed in tracing the boundary line; and it is proved in the Grant to Dartmouth College, mentioned in the former statement, that in 1789 the same appellation extended to that part of the channel which lies above the mouth of Indian Stream. The name, which is thus shewn to have applied at very early periods to parts of the river above its confluence with the only streams claimed by The United States, is now universally admitted to belong to it, at least as high as the great Connecticut Lake.

The following facts go to establish a still more complete accordance between the British claim and the terms of the Treaty. Small brooks (not entitled, on account of their smallness, to the name of rivers, but very appropriately designated by the name of heads of a river,) unite and form a stream, which is the very stream that would be reached by ascending Connecticut River, and constantly following the largest branch, and which, therefore, would with the greatest strictness throughout, up to the very heads above-mentioned, be entitled to the appellation of Connecticut River. The line of boundary claimed by Great Britain does consequently comprize in its descent from the particular head claimed as the north-westernmost head intended by the Treaty down to latitude 45°, the whole of the river that has been or ever can be called Connecticut River.

On the other hand, the line claimed by The United States, if it be Hall's Stream which, as known to the negotiators, constitutes that claim, descends down along the branch and channel of a stream which has every appearance of having been named in contradistinction with the River expressly designated in the Treaty, to the 45th degree of latitude, without ever reaching the Connecticut River at all. Supposing that the claim of The United States be transferred to Indian Stream, the line will in like manner descend along the channel of a stream evidently not contemplated by the Treaty, and pass along Connecticut River in a part of its course, bearing so small a proportion to the part already traversed in a channel differently named, as to exhibit a marked want of conformity with the terms of the Treaty.

The American argument relative to this question closes with an assertion that the head water claimed by Great Britain, as the north-westernmost head of Connecticut River, is, in fact, not one of its north-western heads at all, but the north-easternmost of those heads which, taking their rise in the highlands, come within the meaning of the Treaty.

There is really no force whatever in this objection. The head of Connecticut River claimed by Great Britain may or may not be the north-easternmost of those sources of the river situated in the highlands. The term "north-westernmost" applies in the Treaty to the heads of Connecticut River, and not to those heads which are supposed to spring from highlands. The head claimed by Great Britain springing from the highlands acknowledged by both parties, all conditions which The United States may have derived from their own views of the highlands, and from the connection of the highlands with Connecticut River, are completely fulfilled.

THIRD BRANCH OF DIFFERENCE.

Third Question.
True parallel of
Latitude 45°.

The principal circumstances relating to the third point of difference may be comprized in few words.

By the 5th Article of the Treaty of Ghent it was agreed that Commissioners, to be appointed for the purpose, should cause the boundary "from the source of the River St. Croix to the River Iroquois or Cataraguy (St. Lawrence) to be surveyed and marked." A preceding clause of the same article contains the following words: "whereas that part of the boundary line between the dominions of the two Powers, which extends from the source of the River St. Croix,.....to the north-westernmost head of Connecticut River, thence down along the middle of that river, to the 45th degree of north latitude, thence by a line due west on said latitude, until it strikes the River Iroquois or Cataraguy, has not yet been surveyed," &c. Then comes the agreement, as above.

The particular part of the boundary line here in question is that which extends *from the middle of the Connecticut River along the 45th degree of north latitude to the River St. Lawrence.*

The survey agreed by the Treaty to be made of this portion of the boundary line was commenced and executed, with respect to a considerable part of it, by Astronomers duly appointed for the service in the year 1818. The British Commissioner and Agent were uniformly ready and desirous to proceed in this work; the difficulties which prevented it arose altogether on the part of The United States.

In the First British Statement the complete execution of the survey thus agreed to be made, is claimed on the simple ground of the clear and binding terms of the Treaty.

The United States now object to the execution of the Treaty in that particular, on the ground of its having been ascertained, that the part of the boundary line in question had been previously surveyed and marked, and, therefore, on the supposition that the Treaty of Ghent did not intend to institute a fresh survey of those parts of the boundary line, which were already surveyed and marked by competent authority, but only to cause a survey to be made of those parts of it, which had not been before surveyed and marked in that official manner.

What loss of territory would result to Great Britain from the want of a proper rectification of the boundary between Connecticut River and the River St. Lawrence, may be easily collected from the First British Statement. It remains to be decided, whether

Claim of Great
Britain.

Objections of The
United States.

an express stipulation of Treaty is to be set aside in order to justify The United States in retaining a portion of British Territory, which had passed into their possession in consequence of a delimitation at variance with the express terms of the Treaty, and which they continue to hold only by deferring the execution of a positive provision of the Treaty of Ghent.

Great Britain claims, as the line due west on latitude 45° from Connecticut River to the River St. Lawrence truly intended in the 5th Article of the Treaty of Ghent, the parallel of latitude 45° between these two rivers as resulting from the astronomical observations made under the authority and by the order of the Commissioners appointed to carry into effect the provisions of that Article of the Treaty. Specification of the British Claim

The Agent of the United States opposed heretofore the claim of Great Britain by laying before the Board of Commissioners proof of the running of a line intended to be along the parallel of latitude 45° and extending from Connecticut River to within about ten miles of the river now called St. Lawrence, by order of the Governments of New York and Quebec between the years 1771 and 1774. This line, he contended, having been for many years acknowledged as the boundary between the two Countries, the provisions of the Treaty of Ghent that a line due west on latitude 45° from Connecticut River to the River St. Lawrence shall be surveyed and marked, had in view only the 10 miles which had been left unfinished, and not the 140 miles which were already surveyed and marked under the authority of the local Governments. App. No. 7, p. 13

The claim of the United States to the old line of boundary, which their Agent had thus endeavoured to uphold by the circumstance that this line had formerly been left incomplete, is now in the American Statement supported by the contrary proof that this same line had been entirely completed at the time above referred to. It appears, indeed, that the same archives, from which the Agent of The United States drew his materials for proving that the line along latitude 45° had been only partially ascertained, contain likewise the proof that the whole of this line had been determined under the same authority, without any other interruption than that interposed by the seasons, and that all portions of this line had received an equal sanction from the two provincial governments. There is no intention, on the part of Great Britain, to deny that this line had been considered as accurate in the year 1774, when it was finished. It must likewise be allowed, that this line, having been once established, has continued for want of a better one, to be practically the line of boundary between the two Countries. But it is capable of proof, that long before the conclusion of the Treaty of Ghent, both Governments had received information which must have entirely altered their opinion respecting the correct execution of this line. It appears from documents laid before the late Commission, that each of the two Governments had good reason to believe, that the territory which would have fallen to its share from the line of boundary, if correctly ascertained, had been considerably curtailed by the errors which had crept into the operations of the surveyors, by whom this line had been determined. It is not surprising, indeed, that the Governments should readily have given credit to the information which they received respecting the inaccuracy of this line. The latitude of but one single spot on the eastern bank of Lake Champlain, had been ascertained in the year 1767, at a time when portable instruments for accurately determining the latitude were rare in Europe, and much more so in America. From this spot surveyors had, apparently by means of the magnetic needle only, run lines intended to be along the parallel of latitude 45° , extending to the distance of ninety miles on one side, and of sixty miles on the other, without ever checking their operations by any new determinations of latitude. These operations required of course a very exact knowledge of the variation of the needle, which is not very readily obtained, and they were carried on through an almost uninterrupted dense forest. The State of Vermont, whose northern boundary is formed by the line on latitude 45° , extend- App. No. 8, p. 14
1st Am. Stat.
Written Evidence, No. 26
App. No. 6, p. 9
1st Am. Stat. p. 39.
Proceedings on old line imperfect.

ing ninety miles from the eastern bank of Lake Champlain to Connecticut River, appears to have first suspected the accuracy of this line; and, as early as the year 1806, the Government of that State engaged Dr. Williams, the historian and philosopher of Vermont, to ascertain the correctness of their northern boundary.

He reported that the line, as drawn, deviated to the southward of the parallel, under an angle of 8 degrees; that it consequently cut off, in its eastern prolongation, more and more from the territory which ought to belong to the State of Vermont, and that that State had suffered a loss of more than 600 square miles of its territory by the whole course of this erroneous line. The report of Dr. Williams was received and approved by the Legislature of Vermont; and it appears, that, in the opinion of the people of that State, the inaccuracy of their northern boundary, and their loss by it, was from that time placed beyond the reach of doubt.

It appears that the Government of Vermont only waited for a favorable moment in order to obtain through the mediation of the general Government of The United States, the territory of which they thought themselves unjustly deprived. This opportunity presented itself at the conclusion of peace in 1814; and the Treaty of Ghent contains, accordingly, the provisions cited above.†

It is not contended on either side, that the negotiators of the Treaty of Ghent were unacquainted with the existence of the old line, and the American negotiators must certainly have been as fully aware of it as the British. Both parties must have been desirous of substituting a new correct line of boundary for the old one, the errors of which were generally known, when such a good opportunity presented itself, especially as other circumstances rendered it advisable to establish the other parts of the boundary which had never yet been established at all. The clear words of the Treaty, by which the surveying and marking of this part of the boundary, is made one of the "several purposes" for which the Commissioners were to be appointed, manifestly prove, that such was the intention of both Governments, parties to the Treaty. That this was really the intention of the framers of the Treaty, and that the words of the Treaty were at first likewise understood agreeably to this interpretation by the Government of the United States, clearly appears from what has taken place during several years subsequent to the date of the Treaty. The American Negotiators of the Treaty of Ghent are alive, and no deposition of any one of them, as in the case of the River St. Croix, has been brought forward to prove that they were unacquainted with the existence of the old line or that it was not their intention that this provision of the Treaty should have the effect, that a new line of boundary along the parallel of latitude 45° from the Connecticut River to the River St. Lawrence, should be established by accurate astronomical observations.

No reluctance was shewn, on the part of The United States, to carry on the operations necessary for the determination of the parallel of latitude, till some time after it was known that the changes which would be produced by the establishment of the new parallel of latitude as the boundary line, would be mainly against the interest of the United States, principally by the loss of the fortifications at Rouse's point on the western bank of Lake Champlain.

App. 1st Brit.
Stat. p. 297.

† It is to be observed that the Treaty uses the words "ascertain and determine" with regard to points only; the operation of tracing or running a line is in the language of the Treaty designated by the words "survey and mark." These words are in the 5th Article of the Treaty applied to a line consisting of four different parts, viz, a meridian,—a line along highlands,—a line through a river and a parallel of latitude. It is well known that the meridian had never been established, and that, therefore, the words "survey and mark" were in the Treaty intended to imply all the operations required for ascertaining it, and among these astronomical observations.

Intention of the
Treaty of Ghent
to substitute a
correct line of
boundary for the
old one.

The American Statement refers to a grant of land made by the Government of the State of New York, bounded to the north by the old line near Connecticut River, apparently with a view to shew that it was not the intention of the American Government to subject the lands so bounded to the contingencies consequent on a re-survey of the line. It has been proved in the first place, that no contingency adverse to the interests of The United States was ever apprehended. In the second place, it is to be observed, that whenever the words of a Treaty are not clear and where the intention of the framers of it are not otherwise known, grants, and lawful possession and occupation may form presumptive proofs of the intentions of the parties; but where the words are so clear, and where the views and intentions of all parties are so satisfactorily demonstrated by other circumstances as in this case, such proofs are of little avail.

It having been thus clearly proved that there was sufficient reason for making the provision that the parallel of latitude 45° from Connecticut river to the River St. Lawrence should be established anew; that the provision that such a new parallel should be surveyed and marked under the authority of the Commissioners appointed by both Governments is clearly expressed in the Treaty; that there is no reason to believe, that it was not the intention of the Negotiators who framed the Treaty, as well as of the Governments who ratified it, that this new line should be established, and be considered as finally and conclusively fixing the boundary between the two Countries; and that both Governments sanctioned for several years the measures which were taken for carrying into effect this particular provision, Great Britain must believe that she has fully proved the justice of the claim which she has preferred, and submits, accordingly, that the provision, as cited above, of the 5th Article of the Treaty of Ghent, shall be carried into complete effect.

Consideration as to Grants of Land not available in this instance, 1st. Am. Stat. p. 39.

Conclusion in favour of the British Demand

APPENDIX TO THE SECOND BRITISH STATEMENT.

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APPENDIX.

No. 1.

Extract from Jackson and Flint's Contract.—[From a document communicated by the Government of The United States, to the British Minister at Washington, on the 30th December, 1828.]

Appendix

Jackson and
Flint's Con-
tract

COMMONWEALTH OF MASSACHUSETTS.

Articles of agreement made and entered into this 18th day of April, 1792, between Samuel Phillips, Leonard Jarvis, and John Read, a major part of the Committee for the sale of unappropriated Lands in the eastern part of this Commonwealth of the first part; and Henry Jackson, and Royal Flint for themselves and Associates of the second part, witness as follows, viz :—

ARTICLE I.

It is hereby mutually covenanted and agreed by, and between the said Committee, and the said Jackson and Flint, that they, the said Committee shall sell, and they do hereby, in behalf of the said Commonwealth, contract to sell to the said Jackson and Flint, all the lands belonging to this Commonwealth within the following bounds; *south*, by lands which were sold to the said Jackson and Flint by contract, dated the first day of July last; *west-erly*, by a line on the east side of the great eastern branch of Penobscot river, at the distance of six miles therefrom; *easterly*, by the river Scodick, and a line extending northerly from the source thereof to the highlands; and *northerly*, by the Highlands, or by the line described in the Treaty of Peace between The United States and His Britannic Majesty, excepting and reserving therefrom four lots of three hundred and twenty acres each to every township or tract of land of six miles square, to be appropriated to the following purposes, viz :—one for the first settled Minister, one for the use of the Ministry, one for the use of schools, and one for the future appropriation of the General Court.

The said lots to average in goodness and situation with the other lots in the respective townships, and also excepting and reserving a tract or tracts (not exceeding five,) equal in the whole to one tract of six miles by thirty, to be reserved for the use of the Commonwealth, in such part or parts as the said Committee shall judge best adapted for furnishing masts, in case such tract or tracts shall be found, as in the opinion of the said Committee shall be suitable for this purpose, and not otherwise. The said tract or tracts not to be laid out within six miles of the eastern or western boundary lines, and to be located within two years from this date.

No. 2.

Appendix.

Mr. Sullivan on
the N.W. angle
of Nova Scotia.

Remarks upon the north-west angle of Nova Scotia and Sir William Alexander's Charter, made by Mr. Sullivan, the Agent of The United States, before the Commission under the 5th Article of the Treaty of 1794, for determining the true River St. Croix, in the course of his arguments, before that Commission, in the year 1798. [Extracted from the British Agent's "Reply" laid before the Commission under the 5th Article of the Treaty of Ghent.]

In the Treaty the Angle is described in these words, "*that angle which is formed by a line drawn due north from the source of the River St. Croix to the Highlands.*" An angle is the point of intersection on the mutual inclination of two lines, and therefore to give a second line, the Treaty adds; "*along the said Highlands which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean;*" but still a course to exhibit the inclination of this second line was necessary, and it was therefore added, "*to the north-westernmost head of Connecticut River.*" Then the Treaty contemplates a line running on the Highlands so as to divide the rivers which run into the St. Lawrence from those which fall into the Atlantic Ocean, but whether this is to be a direct or crooked line is not ascertained in the Treaty. If it divide those rivers as above expressed there can be no pretence of its being a straight line. *It is either in its general inclination or in its direct course to run to the north-westernmost head of Connecticut River.* There can be no angle existing, as known to any man, until those lines are formed, for the point of their inclination is but a *mathematical deduction from a perfect recognition of the lines themselves.* It was found at a very early period that the rivers flowed from the southward into the River St. Lawrence and from the northward into the Atlantic Ocean. *This raised a reasonable conjecture that there was a ridge of Highlands which divided those rivers from each other;* but the savage state of the Country, the continued wars of the Nations, and of the Indians, and the immense labour of traversing such an extensive wilderness raised obstacles too great to be overcome by the prospect of any advantages which could possibly be the result. Indeed we are as entire strangers to these Highlands, and the sources of the rivers on either side of them, as we are to the sources of the Nile. In the Grant of King James to Sir William Alexander the Highlands do not appear to be mentioned; the words are, "*unde per imaginariam directam lineam, que pergere per terram seu currere versus Septentrionem concipitur, ad proximam navium stationem, fluvium vel scaturiginem in magno fluvio de Canada sese exonerantem.*" The Highlands are here made *no part* of the boundary, but the line, *as an imaginary line*, was to be drawn *towards* the north or northerly to the source or spring of a river which emptied its waters into the River Canada. *The last mentioned river then is described as the boundary on the north-east of the Patent.*

The line of the Treaty is a line due north, in its course, and in its extent, reaching from the source of the St. Croix to the *highlands*; the line in Sir William Alexander's patent is an indefinite uncertain line, which is to leave, not the source, but the most western spring of the St. Croix, and wander to the unexplored spring or source of a river, which empties its waters into the St. Lawrence, and of the existence of which source or spring there was no evidence or knowledge, but what was conjectured from the existence of rivers, the mouths of which only had been seen. From the year 1621 there was no act of Government, no exercise of jurisdiction, or claim of property, from which this line could receive a station, but all was abandoned and lost in Treaties, cessions, conquests, reconquests, by and from the French Crown, from Oliver Cromwell and from the Kings of England.

The country of Canada was conquered in 1760; on the 7th October, 1763, the King of England issued His Royal Proclamation for improving and regulating the islands and country which had been ceded by the late Treaty of Peace. In this Proclamation we find this provision; first, "The Government of Quebec bounded on the Labrador coast by the River St. John, and thence by a line drawn from the head of that river through the Lake St. John to the south end of the Lake Nepissim, from whence the said line crossing the River St. Lawrence, and the Lake Champlain in forty-five degrees of north latitude, passes along the highlands, which divide the rivers that empty themselves into the River St. Lawrence, from those which fall into the sea."

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There is no such angle described in the Proclamation or in the Act of Parliament as is mentioned in the Treaty of 1783. The line by the Proclamation is to cross the St. Lawrence on the 45th degree of north latitude, which is on a degree nearly equal with the mouth of the Scoudic and Magaguadavic Rivers, and very far south of the angle now sought for, and far below every part of the highlands referred to. No course or courses are given to the line which is drawn on the highlands, but all is left to imagination. This line could have no influence on the minds of the Commissioners in 1783.

In the Treaty of that date it is provided, that the line between the two nations shall run on the highlands to the north-westernmost head of Connecticut River, and then down the middle of that river to the 45th degree of north latitude; whereas the line of the Proclamation was in the 45th degree at the St. Lawrence, and so to run on the highlands to Lake Champlain, without saying at what point it should cross the Connecticut.

Thus we find no place for this angle prior to the Treaty of 1783, and are now left to form it by running the lines in that Treaty agreed upon.

That in order to determine that place as nearly as could be done, it was agreed that a certain river, which had theretofore been known and called by the name of the River St. Croix, and which had been deemed and received as the eastern boundary of the Province of Massachusetts Bay, should be taken as a part of the boundary, and that to fix a line from the source of that river to the highlands, both as a line for the Government of Massachusetts and Nova Scotia, it should run due north, and that the limitation of that line should be in what should ultimately be found, when the country should be explored, to be the highlands.

This is not a singular instance in that Treaty of leaving that as uncertain which might afterwards be ascertained: the important boundary of the north-westernmost head of Connecticut river is unknown and unexplored. There are several other instances very similar to this which appear on reading the second article of the Treaty of Peace.

We have come then clearly to this point, that the northwest angle of Nova Scotia is to be found by running a line due north from the source of the St. Croix river to the highlands to a point or a place, where that line shall intersect a line along the highlands, which divide the rivers as before-mentioned, and run to the north-westernmost head of Connecticut river.

* * * * *

The Highlands had, in the year 1763, been made the boundary of Quebec, or the Lower Canada boundary, but where the boundaries or highlands are, is yet resting on the wing of imagination.

We are as entire strangers to the Highlands, and the sources of the Rivers on either side of them, as we are to the sources of the Nile. There can be no doubt that the north-west angle of Nova Scotia is yet to be formed, and that this is to be done by forming the north-east angle of the State of Massachusetts. To do this it has become necessary to find the

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river which was truly meant and intended by the Commissioners who described the bounds, to find the source of that river, and to draw a line due north from thence.

But even this cannot decide where the north-west angle is, because this Board has no authority to fix the line, which is to be intersected in order to form the angle, or the point of inclination of the two. The question resulting from the Treaty in regard to the line upon the Highlands is reserved to a future period. This Board has no concern in it as to its principles or consequences, and *the point of locality of the north-west angle is to be the investigation of the next century.*

No. 3.

Remarks of the Agent of The United States under the Fourth Article of the Treaty of Ghent upon Sir William Alexander's Charter.—[Extracted from the British Agent's "Reply," laid before the Commission under the 5th Article of the Treaty of Ghent.]

True it is that King James the 1st did issue certain letters patent, in and by which he described a certain extent of territory, and called the same Nova Scotia, but these letters patent were void in their creation, and have been abandoned, treated as obsolete, and wholly without effect, by general consent, and especially by their Britannic Majesties from the time they were issued to the present day, and are *therefore not descriptive of the country called Nova Scotia* in the Treaty of 1783. The Grant to Sir William Alexander was void *ab initio*, and cannot now be adduced as evidence of the limits of a country, to which it never gave a character, and which by the terms of the grant never vested in the grantee, more especially as the Charter has never been introduced into similar discussions, but to be treated with derision and contempt. It was made at a time when an adverse possession was held by the subjects of France under grant from that Crown of the country it described. * * * If before the granting of these Letters Patent the English were not in such possession as to authorise the grant, either by the law of nations or the practice of the times; if according to the tenor of the grant it be doubtful if it ever took effect; if, after it was made, it seems to have been abandoned, virtually rescinded and lost, it is now preposterous to pretend *that it rose again from the dead* to settle the boundaries of the American Republic. * * It is certain that Alexander's whole interest and the title to the whole country became vested in La Tour. The quit claim, from Alexander to De La Tour, whether in terms or not comprising the whole country described in his Patent from King James, has always been considered as equivalent to his own title. Again, these remarks shew that long before the Treaty of 1783, this ancient conveyance to Sir William Alexander, if it ever had any operative character, was void, derelict, abandoned and lost; and the province of Nova Scotia, of which His Britannic Majesty was then in possession, and which was recognised by the negotiators, was not the particular spot of territory marked out by this obsolete Charter.

A present attempt to revive this charter thus effectually rendered void is, indeed, *to call spirits from the vasty deep.* To settle the boundaries of a new empire by squaring its borders and trimming its skirts, to match the proportions of this decayed and mouldering relic, is to tie the hale and living subject to a lifeless inanimate corse. * * * Lest some operative force might be given to the injured relics of Sir William Alexander's deed, the Company of New France granted by deed to La Tour, a portion of the said Country, which before had been included in the deed to him from Sir William Alexander.

* * * It cannot fail to strike the Commissioners with surprise, that as the boundaries contained in this grant were so little attended to nearly two hundred years ago, it should now start up with a pretended vigour, which is competent to limit the extent of the American Empire. Well might the French Commissaries apply to the word derived from such Character the phrase *un mot en air*, and consider any Province made by it as wholly ideal.

Appendix
U. S. Agent.
3th Art. Treaty
Ghent on Sir
W. Alexander's
Grant

Indeed it seems to have been awakened from the slumber of ages for the first time at the discussions of these Commissaries, for the very insignificant purpose to which it was then applied.

That was the first appearance of the scroll after more than one hundred and thirty years. If it be sufficient to constitute an English Province that a King of Scotland should make a nominal conveyance of a tract of country in the occupation of French people, with an apparent intention of its being aliened to the Crown of France, and after a quit claim, by his granter, to a French Subject, his successor should, in a public Treaty, cede it to a rival nation by a Foreign name, under which that nation claimed it, and not by the appellation it had been declared it should ever retain; if in process of time it should become, and, as it may be said, be amalgamated and lost in the general description of another Province, be maintained and guarded by such other Province, and not be taken away until voluntarily surrendered as too expensive a burthen; if all this may be done, and yet the character of a distinct British Province continue attached to it, and be never waved or lost, notwithstanding all these changes, it is indeed true, that its origin and antiquity are coeval with the wonderful parchment by which such miracle is wrought.

No. 4.

DEPOSITIONS of Mr. Adams and Mr. Jay, and Dr. Franklin's Letter. [Extracted from the Claim and opening Argument of the American Agent laid before the Commission under the 5th Article of the Treaty of Ghent.]

AT A MEETING OF THE COMMISSIONERS.

Quincy, the 15th day of August, 1797.

Present:—THOMAS BARCLAY, DAVID HOWELL, EGBERT BENSON.

John Adams, President of the United States of America, appeared before the Board, ^{Mr. Adams deposited.} and (being sworn) was examined as a witness to the following Interrogatories, viz:—Interrogatories by the Agent of The United States.

1st.—What Plan or Plans, Map or Maps, were before the Commissioners, who formed the Treaty of Peace in 1783 between His Britannic Majesty and The United States of America?

Answer.—Mitchell's Map was the only map or plan, which was used by the Commissioners at their public Conferences, though other maps were occasionally consulted by the American Commissioners at their lodgings.

2d.—Whether any lines were marked at that time as designating the boundaries of The United States upon any, or upon what map?

Answer.—Lines were marked at that time as designating the boundaries of The United States upon Mitchell's map.

3rd.—What Rivers were claimed to, or talked of, by the Commissioners on either side, as a proposed boundary, and for what reason?

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Answer.—The British Commissioners first claimed to Piscataqua River, then to Kennebec, then to Penobscot, and at length to St. Croix, as marked on Mitchell's map. One of the American Ministers at first proposed the River St. John's, as marked on Mitchell's map, but his Colleagues observing, that, as St. Croix was the River mentioned in the charter of Massachusetts Bay, they could not justify insisting on St. John's as an ultimatum—he agreed with them to adhere to the charter of Massachusetts Bay.

4th.—Whether a copy of the patent to Sir William Alexander, or any Act of Parliament of Great Britain were before the said Commissioners at that time, or spoken of, or relied upon, by the Commissioners on the part of His Britannic Majesty?

Answer.—It was very probable that the patent of King James to Sir William Alexander, and that an act or acts of Parliament might be produced and argued on, but I do not recollect, at this time, any particular use that was made of them. Nothing was ultimately relied on, which interfered with the Charter of Massachusetts Bay.

5th.—Generally what plans, documents, and papers were before the said Commissioners when the said Article of the same Treaty was formed?

Answer.—No other plan than Mitchell's map, that I recollect. Documents from the public offices in England were brought over and laid before us; in answer to which we produced the memorials of Governor Shirley and Mr. ———, and the counter memorials of the French Communis^{rs} at Paris, in a printed quarto volume, a report of Mr. Hutchinson to the General Court printed in a Journal of the House of Representatives, not many years from 1760, though I cannot now recollect the precise year, and certain proceedings of Governors Pownall and Bernard, recorded also in the Journals of the House of Representatives, and the charter of Massachusetts Bay.

6th.—What were the lines claimed on each side and how was the matter ultimately settled?

Answer.—Answered in part under the 3rd question. The ultimate agreement was to adhere to the Charter of Massachusetts Bay and St. Croix River mentioned in it, which was supposed to be delineated on Mitchell's map.

7th.—Whether it was agreed to let the matter of boundary between the State of Massachusetts and the Province of Nova Scotia remain as the same had been conceived to be?

Answer.—Answered under the 3rd and 6th questions.

Interrogatory by the Commissioners.

In explanation of your answer to the third Interrogatory proposed by the Agent on the part of The United States;—do you know whether it was understood, intended or agreed, between the British and American Commissioners, that the River St. Croix, as marked on Mitchell's Map, should so be the boundary as to preclude all inquiry respecting any error or mistake in the said Map in designating the River St. Croix? Or was there any, if so, what understanding, intent, or agreement, between the Commissioners relative to the case of error or mistake in the said Map?

Answer.—The case of such supposed error or mistake was not suggested, consequently there was no understanding, intent, or agreement expressed respecting it.

Mr. Jay's depo-
sition.

The answer of John Jay, who was one of the American Commissioners, by whom the Treaty of Peace between Great Britain and The United States was negotiated, to the interrogatories put to him, at the instance of the Agent on the part of The United States, by the Board of Commissioners for ascertaining the River St. Croix, intended in and by the said Treaty.

The said John Jay, having been duly sworn, answers and says,—that, in course of the said negotiations, difficulties arose respecting the eastern extent of The United States;

that Mitchell's Map was before them, and was frequently consulted for geographical information; that in settling the eastern boundary line (described in the Treaty), and of which the River St. Croix forms a part, it became a question which of the rivers in those parts was the true River St. Croix, it being said that several of them had that name; that they did finally agree, that the River St. Croix, laid down in Mitchell's Map, was the River St. Croix which ought to form a part of the said boundary line. But whether that River was then so decidedly and permanently adopted and agreed upon by the parties as conclusively to bind the two nations to that limit, even in case it should afterwards appear that Mitchell had been mistaken, and that the true River St. Croix was a different one from that which is delineated by that name on his Map, was a question or case which he does not recollect nor believe was then put or talked of.

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By whom in particular that Map was then produced, and what other Maps, Charts and Documents of State were then before the Commissioners at Paris, and whether the British Commissioners then produced or mentioned an Act of Parliament respecting the Boundaries of Massachusetts, are circumstances which his recollection does not enable him to ascertain. It seems to him that certain lines were marked on the copy of Mitchell's Map, which was before them at Paris, but whether the Map mentioned in the Interrogatory as now produced, is that copy, or whether the lines said to appear in it are the same lines, he cannot without inspecting and examining it, undertake to judge.

To the last interrogatory he answers, that for his own part he was of opinion, that the easterly boundaries of the United States ought, on principles of right and justice to be the same with the easterly boundaries of the late Colony or Province of Massachusetts.

Although much was said and reasoned on the subject, yet he does not at this distance of time remember any particular and explicit declarations of the Parties to each other which would authorize him to say that the part of the said line (described in the Treaty) which is formed by the River St. Croix, was mutually and clearly conceived and admitted to be also a part of the eastern boundary line of Massachusetts.

He doubts there having then been very clear conceptions relative to the just and precise easterly extent of Massachusetts; for he has reason to believe, that respectable opinions in America at that time considered the River St. John as the proper eastern limit of The United States.

JOHN JAY

Sworn this 21st of May 1798 before me, EGBERT BENSON.

SIR,

Philadelphia, April 8th, 1790. Dr. Franklin's letter

I received your letter of the 31st past, relating to the encroachments made on the eastern limits of The United States by Settlers under the British Government, pretending, that it is the western, and not the eastern River of the Bay of Passamaquoddy, which was designated by the name of St. Croix in the Treaty of Peace with that Nation, and requesting of me to communicate any facts, which my memory or papers may enable me to recollect, and which may indicate a true river the Commissioners on both sides had in their view to establish as the boundary between the two Nations. Your letter found me under a severe fit of my malady, which prevented my answering it sooner, or attending indeed to any kind of business. I now can assure you, that I am perfectly clear in the remembrance, that the Map we used in tracing the boundary was brought to the Treaty by the Commissioners from England, and that it was the same that was published by Mitchell about twenty years before. Having a copy of that Map by me in loose sheets, I send you that sheet which contains the Bay of Passamaquoddy, where you will see that part of the boundary traced.

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I remember too, that in that part of the boundary we relied much on the opinion of Mr. Adams, who had been concerned in some former disputes concerning those Territories.

I think therefore that you may obtain still further light from him. That the Map we used was Mitchell's Map, Congress were acquainted at the time by a letter to their Secretary for Foreign Affairs, which I suppose may be found upon their files.

I have the honor to be, with the greatest esteem and respect,

Sir,

Your most obedient and most humble servant,

Hon. T. Jefferson, Esq.
Secretary of State.

B. FRANKLIN.

No. 5.

Extract from "Secret Journals" of the Old Congress.

Vol. iii. p. 152.

As the efforts of His Britannick Majesty will be principally directed against the western and north-western boundary, the observations on this subject may be confined thereto.

The Treaty of Paris of 1763, to which His Most Christian Majesty and the British King were parties, restricted those Colonies, which were before extended by their Charters to the sea, to the River Mississippi. To this River, then, these States will still extend in the same manner, unless by some subsequent constitutional and rightful act their limits have been abridged.

The Negotiations on this head will probably assume a variety of forms. None, perhaps, will be more strenuously urged than those which arise from His Britannick Majesty's Proclamation on the 7th day of October, 1763, the Treaty of Fort Stanwix, in 1768, between him and the Six Nations, and the British Statute in 1774, establishing among other things, the boundaries of Quebec.

1. If it can be supposed that the purpose of the Proclamation was to effect the boundaries of The United States, it must be remembered to be the act of the very Prince against whom we contend; that it preceded, a short time only, the manifestation of those wicked and oppressive measures which gave birth to the Revolution; and that it directly interfered with the rights accruing to the Colonies, by the ancient and more solemn acts of his predecessors.

But by the prohibition to the Governors of the other Colonies than of Quebec, East Florida or West Florida, to grant warrants of survey, or pass patents "for the present, and until his (the British King's) further pleasure should be known," for any lands beyond the heads or sources of any of the Rivers which fall into the Atlantic Ocean from the west and north-west, is strongly shown an opinion, that there were lands beyond the heads of those Rivers within the grants of the Governors.

By the prohibition too, to grant warrants of survey, or pass patents for any lands whatever, which, "not having been ceded to or purchased by the British King, were reserved to the Indians or any of them," a restriction of territory could not have been designed by a King, who granted the Charters to the Colonies, knowing that they would interfere with the rights of the Indians, who has always considered a cession or purchase from the Indians, not so much the source of a title, as a milder means of preventing their hostility, who, since the date of the Proclamation, has granted through the prohibited Governors themselves, large quantities of land beyond the heads of those Rivers, and whose own geographer, in a map describing and distinguishing the British, Spanish, and

French Dominions in America, according to the aforesaid Treaty of Paris, carries the States of Georgia, North Carolina, South Carolina, and Virginia, as far as the Mississippi.

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In a word, this part of the Proclamation seems to have been intended merely to shut up the land offices, not to curtail limits; to keep the Indians in peace, not to relinquish the rights accruing under the Charters, and particularly that of pre-emption.

2. The Treaty of Fort Stanwix is susceptible of a similar answer, by viewing it as an instrument of peace, not the conveyance of a title. For there is reason to believe, that the British King has never ratified it; and yet it is notorious, that his Governors have granted lands within the cession then made.

If it be said that the authority to grant those lands was derived from the Treaty of Lancaster, in 1744, here then is a forcible illustration of our doctrine. For on what principle, but on account of peace, could the British King have attempted to procure a new cession of the same Country? On the other hand, if the authority to grant those lands was not derived from the Treaty of Lancaster, it can rest on no other foundation than that of his Charters.

3. The Quebec Act is one of the multiplied causes of our opposition, and finally, of the Revolution. *No stress, therefore, ought to be laid on it, even if in its operation it abridged the boundary of the States.* But the provision, that nothing therein contained relative to the boundary of the Province of Quebec, should in any wise affect the boundaries of any other Colony, excludes such an operation, and confirms chartered rights.

No. 6.

Extract from the British Agent's "Reply" before the Commissioners, under the Fifth Article of the Treaty of Ghent, relating to the old survey of the parallel of 45° north latitude.

The learned Dr. Samuel Williams, whose name stands so justly and so eminently high in the annals of American literature, in his natural and civil History of Vermont informs us that the State of Vermont was admitted into the Federal Union on the 18th February, 1791, and he describes the boundaries of the State as follows, viz. :

"The eastern boundary of Vermont is formed by the west bank of Connecticut River. This line following the course of the River, is about 200 miles; and is derived from the decree of George the Third. On the 20th of July, 1764, His Majesty ordered and declared the western bank of the River Connecticut, from where it enters the Province of Massachusetts Bay, as far north as the forty-fifth degree of northern latitude, to be the boundary line between the two Provinces of New Hampshire and New York."

Dr. Williams's
History of Ver-
mont, Vol. 1,
p. 271

"The north line of the State begins at the latitude of 45 degrees north, and runs upon that parallel from Lake Champlain to Connecticut River. This line is ninety miles and one quarter of a mile long, and divides this part of The United States from the Province of Canada. Much pains was taken by the Provinces of New York and Canada, to ascertain the latitude of 45° by astronomical observations. This was done by Commissioners from both Provinces in the month of September, 1767. At the place where the line crosses Lake Champlain, they erected a monument of stone, which is yet standing. The line was afterwards run in the year 1772, by J. Carden and J. Collins, of Quebec, but with great error. By order of Governor Tichenor, in 1806, I examined the situation of this line in the eastern part of the State. By astronomical observations, I found the

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“ monument they had erected on the eastern bank of Lake Memphremagog was in the latitude of 44 degrees, 53 minutes, 46 seconds, and at Connecticut River, their monument was in the latitude of 44 degrees, 47 minutes, 59 seconds; admitting their line to have been run in a straight course, this would imply an error of 8 degrees, 52 minutes, 19 seconds, in the direction, and occasions the loss to Vermont of 401,973½ acres of land, equal to 17 $\frac{44}{100}$ townships. The direction of Connecticut River is from the north-east, and on that account, if the divisional line was continued on the parallel of 45 degrees, till it intersected the river, one or two more townships of land would accrue to Vermont. This line ariseth from the Proclamation of George the Third, of October 7th, 1763, determining the southern boundary of the Province of Quebec, and from the Treaty of Peace between Britain and the States of America in 1783.”

Dr. Williams, in a subsequent part of his history, proceeds as follows :

“ The Annual Session of the Legislature, in October, 1804, was at Rutland.

“ Among the subjects proposed by the Governor, for the consideration of the Assembly, one related to the situation of the northern line of the State. It was not known by whom this line was run, at what time, or with what accuracy, but it was universally believed that it was run in a direction deviating from the parallel of latitude, and much to the injury of Vermont. The inhabitants near the reputed northern boundary, were persuaded that the direction of the line was towards the south-east, that the State was on that account deprived of a large tract of valuable land which belonged to it; and as the adjacent townships were rapidly settling, that they should eventually be involved in expense and troublesome contests about the matter. The House appointed a Committee upon this business, and their report was, that the Governor should be desired to write to the President of The United States on the subject.” “ 1805. With regard to the particular affairs of the State, the Assembly were now in earnest to obtain information relating to the situation of their northern boundary, and to fix upon some place for the future session of the Legislature. In one of their laws, they made provision for, empowered and desired, the Governor to have the latitude of the reputed north line of the State ascertained by proper observations, on the bank of Connecticut River, and at Lake Memphremagog.

“ In the fall of the year 1806 the Legislature convened at Middleburg.

“ The Governor had endeavored to fix their attention on the lands which belonged to Vermont, but lay within the reputed bounds of Canada, their right to which was now known, by the measures which had been taken to ascertain the latitude of the north line of the State. The results of the inquiry had been much in favor of his judgment and exertions, and the benefit of the State. Vexed that any thing should be announced to the people, that might tend to increase the reputation of the Governor, party zeal and folly went so far as to give a political direction to a mathematical line.

“ We learn from your Excellency's communications that measures have been taken, pursuant to the direction of the Legislature at their last Session, to ascertain the northern boundary line of this State, and that it can be established only through the medium of the national Government, and from the appearance of the error to be rectified, we are led to believe that the interest of our sister State of New York may be so far affected by the measure as to require the co-operation of that State.

“ Whether we would urge the enlargement of this State at the risk of lessening the State of New York, and perhaps of The United States, by transferring several settlements on the River St. Lawrence, is a question of the highest importance. *Journal of the Assembly for 1806, p. 39.*”

Ibid. Vol. ii. pp. 33, 34, 35.

Ibid. pp. 332, 343, 344.

“What shall be said of their question of the highest importance?”

“It was in fact a question of the lowest insignificance.

“There was no probability either in theory, operation or effect, that rectifying the northern boundary of Vermont, could either lessen the State of New York, or transfer any of the settlements of the River St. Lawrence, and there was no place in The United States but the brain of an intriguing politician, in which a mathematical line could have been attended with any such risk, or have produced any such disturbance.

In the Laws of the State of Vermont, published by order of the Legislature, and printed at Randolph, 1808, vol. ii. p. 74, title, “Boundaries of the State,” we find at large the Law referred to by Dr. Williams, in one of the above extracts, which Law is as follows, viz. :

“An Act empowering the Governor of this State (Vermont) to ascertain the northern boundary of this State, passed 8th November, 1805.

Section I.—“It is hereby enacted by the General Assembly of the State of Vermont, that the Governor of this state for the time being be, and he is hereby authorized and empowered to employ some person of competent knowledge, together with such Assistants as he may deem necessary, to ascertain, *by celestial observations*, where the 45th degree of north latitude crosses Lake Memphremagog, and where the same intersects Connecticut River, and how far a parallel of latitude extended east and west from said points, will deviate from the present boundary line.

Section 2.—“That for the purposes aforesaid, there be, and there is hereby appropriated a sum not exceeding three hundred dollars, and the Treasurer is hereby directed to pay the same.”

From the “NEW YORK COMMERCIAL ADVERTISER” of the 30th October, 1806, is taken the following extract from Governor Tichenor’s speech delivered before the Legislature of Vermont on the 11th of that month, referred to by Dr. Williams :

“I have the satisfaction to announce, that the measures taken by the Legislature at their last Session, to ascertain the northern boundary of this State, promise a very valuable acquisition. Conformably with the power vested in me by the Act for that purpose, I appointed Dr. Williams to ascertain the true divisional line between this State and the Province of Lower Canada, which by a course of astronomical observations made near the ancient monument of Connecticut River, he found to be nearly 14 miles south of the latitude of 45 degrees.

“At the Lake Memphremagog the present division line was found to be more than seven miles south of what it ought to be.

“From these observations the result is, that this State has been out of possession (owing to the error in establishing the divisional line) of a tract of land equal to thirteen townships.

“The acknowledged experience and profound science of the person employed for that purpose, warrant the belief that his observations are without material error. The report which has been made to me on this subject, together with the map that accompanied it, shall be laid before you. So large a tract of land which on the settlement of the line, would probably fall within the jurisdiction of this state, appears to be an object worthy of your attention. The object can only be effected by an application to the executive of our National Government.”

Thus much for the satisfaction with this old line on the part of the State of Vermont, that had acquired a great proportion of the interest of the State of New York in this question.

Let us now turn our attention to Canada—On the 22d January, 1807, the following report was made by the Surveyor-General of the Province of Lower Canada, to the then Administrator of the Government of that Province, viz.

“In obedience to your Honor’s orders by Mr. Secretary Ryland’s letter of the 1st

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" December last, ordering a copy of the Plan of the division line heretofore established between the then Provinces of Quebec and New York, together with any other documents relative thereto that are of record in this office ;

" I have the honor to report that this line was established by actual measurement in the field, and its position ascertained by astronomical observations in the years 1771, 1772, 1773, and 1774, by order of the Governments of the then Provinces of Quebec and New York, as will more fully appear by the Plan and Division Line accompanying this Report, taken from the original record in this office, together with a copy of Lieutenant-Governor Cramahe's instructions to John Collins, Esq., the then Deputy Surveyor-General, relative thereto.

" Humbly conceiving it my duty to state every particular that may tend to throw light on this subject, and in order to be more explanatory, I have accompanied this Report, with a plan of part of the Province on a reduced scale, on which is delineated the boundary line between this Province and the States of New York and Vermont, agreeable to the actual surveys of the several townships set off on that line, by which its due course and position is accurately ascertained.

" This line is evidently crooked in the field, and inclines in some places south, and others north ; but after having carefully calculated its exact distance from this city, (the latitude and longitude of which has been perfectly well established from repeated astronomical observations) and considering it as a fixed point of departure, it would appear that this boundary line encroaches on this Province, above three geographical miles at the Connecticut, and about one mile on the meridian of Montreal, which nearly agrees with the actual surveys that have been made between the River St. Lawrence and the Province Line ; this also corresponds with a Letter written to me in August, 1805, by Mr. Jesse Penoyer, Deputy Provincial Surveyor, a copy of which I beg leave to subjoin to this Report, conceiving the information therein contained of importance to Government, particularly after the steps which have been taken by the Government of Vermont State to prove and ascertain the exact position of the Province Line, and also in consequence of the encroachments he mentions, have, or are likely to take place by the Government of New Hampshire and Province of Maine, in granting of lands which they mistakenly conceive to be within their limits, which are within the frontiers of this province, which circumstance arises from the height of land, (which is the boundary) not being as yet ascertained and fixed by both Governments, agreeable to the definition of Treaty between Great Britain and The United States of America."

" Mr. Penoyer must have been well informed, if I may judge from part of the Governor of Vermont's speech announcing the considerable error, which Dr. Williams found in the position of the province line.

" That gentleman was employed by that state to take astronomical observations on the line, and found it to be on the Connecticut River nearly 14 miles south of the latitude 45°; and at Lake Memphremagog found the said line to be more than seven miles south of what it ought to be, and therefore considered it as a very great encroachment on that state ; which I conceive to be highly improbable, but without calling in question that Gentleman's scientific abilities, I can only attribute his error, (so I must call it) from the want of correct and suitable instruments, which I was informed was the case.

" But admitting, for a moment, that the line was fourteen miles too far south at the Connecticut, and seven miles at Lake Memphremagog, in that case, by a line running in the direction of those two fixed points, establishing the parallel 45°, till intersected by the River St. Lawrence, would cut off a much greater portion of the State of New York, than of this province, and comprehend within our limits several townships on the south side of

“ said River St. Lawrence, now within the State of New York, which I am informed are in
 “ part settled.

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The letter from Mr. Penoyer, alluded to in the foregoing report, is in the following
 words :

Old line of latitude 45°.

“ Quebec, 9th August, 1805.

“ Joseph Bouchette, Esq. Surveyor General, &c. &c.

“ SIR,

“ On a tour which I lately made through a part of Vermont and New Hampshire, I
 “ was informed by the Surveyor-General of Vermont that the Legislature of that State had
 “ requested that Congress should take measures to have the line between Vermont and this
 “ province traced and examined, conceiving that it was crooked, and not on the ground or
 “ place where it ought to be ; that in fact it was too far south. Mr. Whitlaw (the Gentle-
 “ man above alluded to) asked my opinion on the subject, which I freely gave him as
 “ follows :

“ That some time about ten years ago, I had occasion to make some observations
 “ on the line near Lake Champlain, and from the best observations I could make, I judged
 “ the line, at that place was too far to the northward about one and a half geographical
 “ miles. That I had traced the line upwards of sixty miles to the eastward of Lake Cham-
 “ plain, and that I had found the said line to be crooked.

“ That when in New Hampshire, I was present at the meeting of the Legislature of
 “ that State, and saw a number of gentlemen who were making application for the Lands
 “ which they conceived to be in the frontiers of that State, but by a Plan which they then
 “ shewed me the most of the land they were applying for is evidently within our province.

“ I was also then informed, that the same gentlemen had, or were about to make
 “ application for a quantity of Land in what they mistakenly took to be the Frontiers
 “ of the Province of Maine.”

. Now it cannot be doubted that this mutual dissatisfaction with regard to the line of 45 degrees north latitude, as formerly run, both on the part of Vermont and of Canada, was well known to the two National Governments at the time of the Treaty of Ghent, and consequently to the negotiators of that Treaty, and was one of the causes that led to the framing of the Fifth Article of that Treaty, under which the present commission was instituted.

No. 7.

Extract from the American Agent's " Claim and Opening Argument" laid before the Commissioners under the 5th Article of the Treaty of Ghent, relating to the old Survey of the parallel of 45° North.

* * * * *

“ At a Council held at Fort George, in the City of New York, on Wednesday,
 the 1st day of December, 1773.

“ Present,

“ His Excellency WILLIAM TRYON, Esq. Captain-General, &c.

MR. WATTS,

MR. WHITE,

MR. DELANCEY,

MR. CRUGER.

MR. SMITH,

“ His Excellency laid before the Board a journal of the proceedings of John Collins, Esq. Surveyor on the part of the Province of Quebec, and Claude Joseph Sauthier, Esq. Surveyor appointed on the part of this Province for running the line between the

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“ Governments of New York and Quebec, westward from Lake Champlain in the latitude of 45° north to the River St. Lawrence with a chart or map of the said line as far as the same is run. As also a letter from Mr. Collins, dated at Montreal, the 22d October last, acquainting his Excellency that the wet season, which continued many days, prevented their completing the survey; that they had advanced fifty miles west of Lake Champlain, when they found themselves in want of provisions, and the means they made use of to obtain fresh supplies disappointed, and that he is of opinion the distance left unsurveyed does not exceed ten miles.”

This line, thus surveyed and marked from Connecticut River to within a few miles of St. Regis (and it need not here be said that it was done in a manner unusually calculated to attract notice), became from that moment the known and established boundary between Quebec and New York. A Map of this line was made by the Surveyors, and deposited in the Public Records. Grants were immediately made upon it, and it was considered by both Provinces as the limit of their respective Possessions. Up to the time of the Treaty of 1783, no dispute existed concerning it, and there was no reason to believe that, in the formation of that Treaty, any other Boundary on that latitude entered into the imagination of any human being, except the small part of it, which passes East to the point intersected by that portion of Connecticut River, now called Hall's Stream, and which was by implication cut off, when the northwesternmost head of that Stream, and of course the stream itself, was, as has been already shewn, adopted as the boundary, *and also the small portion remaining unsurveyed in the vicinity of St. Regis.*

No. 8.

Extract from an act of Assembly of the Province of New York, passed 1st of April, 1775.—[From a document communicated by the Government of The United States to the British Minister at Washington, on the 30th December, 1828.]

An Act for the payment of the Salaries of the Several Officers of this Colony, and other purposes therein mentioned.

Be it enacted by His Honour the Lieutenant Governor of the Council and the General Assembly, and it is hereby Enacted by the authority of the same, that the Treasurer of this Colony shall, and hereby is directed and required to pay * * * * *

Unto John Collins for completing the extension of the Boundary Line between this Colony and the Province of Quebec, to Lake Saint François, agreeable to a resolution of this House, the 16th of March last, the sum of eighty-five Pounds.

No. 9.

Remarks upon Captain Partridge's Barometrical Observations.

As it is possible that The United States may, in their Second Statement, refer to the barometrical observations carried on by Captain Partridge, it is deemed advisable on the part of Great Britain to annex to her Second Statement the following extract from the “Reply” of the British Agent laid before the Commission under the 5th Article of the Treaty of Ghent.

In the year 1819, the proceedings of the Surveyors on the part of The United States assumed another aspect, the principal feature of them being a course of barometrical operations by Captain Partridge. With regard to these barometrical operations of Captain Partridge, it may, without any pretensions to more than a very superficial acquaintance with this branch of pneumatics, be observed, that the results of operations of this nature will be more or less accurate according to the nature of the objects to which they are applied; they may be resorted to with considerable accuracy for determining altitudes, when a number of observations are made at the *same time* at *both* stations, whose difference of altitude is to be ascertained, with barometers very accurately constructed; and also, in places where an accurate journal is kept for a length of time, from which the average height of the barometer for a whole year may be ascertained with tolerable accuracy, the height of such places above the level of the sea may be determined; the average height of the barometer at the level of the sea having been ascertained by requisite observations in various places. In proportion as these circumstances are wanting, the more uncertain such results must necessarily be rendered: by attending to the principle upon which these operations depend this will be readily perceived. The change of the height of the barometer, or of the length of the column of mercury, will determine the difference of level between two stations; but the latter is more than 10,500 times as much as the former, that is to say, if there should be an error of one-eighth of an inch in the height of the barometer, it would produce a corresponding error of 109 feet in the difference of the height of the two places, and so in proportion for any error of greater magnitude in the height of the barometer. There must not only be a careful observer, but it is requisite, also, that the instruments should be very accurate; and, although the mountain barometers devised by Sir H. Englefield are undoubtedly very useful, on account of the facility of their transportation, yet it must be remarked, that they are found to be by no means very accurate, even when made by the best artists, but when made by inexperienced artists, and furnished with scales imperfectly divided, as was the case with those which were, upon the present occasion, used by Captain Partridge, it is obvious that they are in a proportionable degree the less to be depended upon.

Some of the results of his observations, on the present occasion, it was evident, from the very face of them, to those who had any knowledge of the Country, were so erroneous, that it has led to these inquiries; by which it was further ascertained, that the method pursued by Captain Partridge in making his barometrical observations could, by no means, be depended upon for correct results. Instead of making observations at *both* stations at the same time,* he makes them in succession, removing his barometer from one place to another, and remaining at each place so long only, as, *in his opinion*, would enable him to determine the law of the atmospherical change of the barometer. Now, it must be seen, by any attention to the subject, that where such small quantities are concerned this determination must be exceedingly difficult even if the changes of the atmosphere were wrought by the same causes, in the same manner, for a considerable space of time. It is true that in such cases however uncertain and complicated the law which the pressure of the atmosphere follows might be, the changes for a short space of time might be considered as uniform. But it is well known that the changes of the pressure of the atmosphere are sudden, variable, and sometimes very considerable, and seldom uniform for any length of time; and the determination of the difference of level between two places, situated at a distance from each other, where an allowance is made for a change of the atmosphere upon a supposition

* For the mode in practice of ascertaining heights by the barometer, vide: a Paper No. XLIII, entitled, "Estimate of the height of the White Hills in New Hampshire, by Nathaniel Bowditch," published in the memoirs of the American Academy of Arts and Sciences at Boston.

of the uniformity of such changes must be considered as very doubtful. In the instances of the heights of Temisquata Lake, above the mouth of Madawaska River, and the River Des Chutes, as given in Captain Partridge's Report, and repeated in the Table annexed to the opening argument of the Agent of The United States, Lake Temisquata is said to be 134 feet above the mouth of Madawaska River, and the mouth of Madawaska River to be 240 feet above the mouth of the River Des Chutes. It is obvious that this statement, in one or other of these instances, must be greatly erroneous :—Lake Temisquata, it must be known to every one who has passed it, is almost a dead level ; its height above the Madawaska River must be entirely owing to the descent of this River. This River, which for about twenty miles below the Lake has very little current, scarcely perceptible, which for the last ten miles is but in a small degree increased, and has only one rapid or small fall at its mouth, is made to descend 134 feet in thirty miles. The distance from this mouth to the River Des Chutes is stated in the same table to be seventy-five miles, not one mile of the whole of which distance has so little current as the first 20 miles of the Madawaska River, and there are several rapid places a few miles below the mouth of Madawaska River ; and below the Great Falls there are several very strong rapids, among which are the White Rapids, Rapide des Femmes, &c. ; and the whole descent is said to be only 240 feet, from which eighty feet must be deducted for the Great Falls ; so that in the Madawaska River, the waters of which are as above described, the difference of level would in 30 miles be 134 feet ; while in the whole distance of seventy-five miles from thence, in which the waters are also as above described, the whole difference is made to be 240 feet only ; from which deducting eighty feet, a moderate allowance for the difference of level of the two landings at the Great Falls, there would remain only 160 feet gradual descent between the mouth of the River des Chutes and the mouth of the River Madawaska, seventy-five miles distant from each other, of waters of the description in this behalf above mentioned. This error, great as it must be, in one or other of these instances, is easily accounted for from the considerations above stated, but it demonstrates that no dependence whatever can be placed upon the results of barometrical operations thus conducted, and with such instruments.

It cannot be considered as altogether impertinent on this occasion to state the results of estimates for a similar purpose, made by Dr. Williams, who, in the 27th page of his first volume of his History of Vermont, states them as follows, viz.—“ Descent of water from that part of Lake Champlain, where the current begins at St. John's, a distance of fifty miles, estimated at *twelve inches to a mile* ; fifty feet falls between St. John and Chamble, estimated, forty feet,—descent of the water from the basin of Chamble to Quebec, a distance of one hundred and eighty miles, estimated at *twelve inches to a mile*, 180 feet.”

Nor will it be considered as impertinent to make the following extract from Dr Belknap's History of New Hampshire, on the subject of the currents of rivers ; who, in the 49th page of the third volume of this History, states, that, “ From a series of observations made by James Wintthrop, Esq. on the rivers of New Hampshire and Vermont he deduces this conclusion ; that the descent of our rivers is much less than European theorists have supposed to be necessary to give a current to water. In the last hundred and fifty miles of Connecticut River, it descends not more than two feet in a mile. Onion River for forty-three miles from its mouth, falls four feet in a mile, and is exceedingly rapid between the cataracts. We may reckon the shore at Quebec to be at the level of the sea, and two hundred miles from that part of Lake Champlain where the current begins. The difference of elevation will be three hundred and forty two feet, or twenty inches to a mile.

"If we extend our comparison from Quebec to the top of the Green Mountains at Williamston, the elevation will be 1666 feet, and the distance about 320 miles, which is five feet two inches and a half to a mile."

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Capt. Partridge's
barometrical ob-
servations.

The result of Captain Partridge's barometrical operations gives nearly four feet and a half descent to a mile in the comparatively still waters of the Madawaska River; and about two feet to a mile in the comparatively rapid stream from the Madawaska River to the River Des Chutes; and thus making the descent in the Madawaska to be more than in the "exceedingly rapid" Onion River, in the State of Vermont, which it appears falls not more than four feet in a mile for forty-three miles from its mouth, all the cataracts included. Captain Partridge makes the surface of the River St. John at the mouth of the River Des Chutes to be 15 feet above the surface of the St. Lawrence at Quebec, or the level of the sea in that quarter.

The Des Chutes is 190 miles distant from the mouth of the River St. John in the Bay of Fundy. It must be thought a very moderate estimate, probably far within the fact, to allow a descent of one foot per mile in the waters of the St. John from the Des Chutes to the mouth of the St. John, considering the falls and rapids that exist in this river below the Des Chutes, this would make the whole descent 190 feet. From this take 15 feet, the height of the St. John, as stated by Captain Partridge, at the mouth of the Des Chutes, above the surface of the St. Lawrence, and the result of Captain Partridge's observations would be to make the level of the sea in the Bay of Fundy 175 feet below the surface of the River St. Lawrence at Quebec, and below the level of the sea in the Gulf of St. Lawrence, from which the Bay of Fundy is separated only by a low and narrow isthmus; and it is generally allowed that there is but a small difference in the level of the waters on each side of this isthmus. Such results must destroy all confidence in these operations.

It is evident that there is no proof before the Board, that Beaver Stream is higher than the mouth of the River Des Chutes, but we may go further and convince ourselves that Beaver Stream must be lower than the River Des Chutes. It will not be contended that there is any difference in the level of the waters in the River St. Lawrence at and below Quebec and in any part of the Gulf of St. Lawrence, and it is allowed on all hands, as above stated, and actual observations have partially proved, that there is no considerable difference in the level of the waters of the Bay of Fundy and the Gulf of St. Lawrence. This indeed is sufficiently indicated by the lowness of the land on the isthmus that separates them. Let it be supposed then that the Beaver Stream, where the due north line intersects it, is only equally high with the Des Chutes at its mouth, the distance of the Beaver Stream from the St. Lawrence, if it do communicate with that river, cannot exceed 40 miles exclusive of the lakes which may be considered as dead level. Upon these data the comparison between the descent of water in the Beaver River and the St. John would stand thus:

| Supposed descent in a mile of the River St. John below the Des Chutes. | Elevation of the mouth of the Des Chutes above the Bay of Fundy. | Comparative descent in a mile in Beaver River or supposed River Metis. |
|--|--|--|
| 1 foot | 190 feet | 4 $\frac{3}{4}$ feet |
| 1 $\frac{1}{2}$ feet | 285 . . | 7 $\frac{1}{2}$. . |
| 2 feet | 380 . . | 9 $\frac{1}{2}$. . |

From this it is clear that the least supposition that can reasonably be admitted, of the descent of the St. John below the Des Chutes, gives, on the supposition of an *equal height above the level of the sea*, a descent of 4 $\frac{3}{4}$ feet in a mile in the River Metis, and that the supposition of an equal descent in the St. John below the Des Chutes, with that of Con-

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necticut River, for the last 150 miles, namely, a descent of 2 feet in a mile, a supposition by no means improbable, and most likely rather below than above what is actually the fact, even allowing for the flowing of the tide in the St. John some distance from its mouth, gives $9\frac{1}{2}$ feet descent of the River Metis in a mile. Now that the River Metis has great falls in it, or is very rapid in its course, is not at all known to be the case; the Surveyors, as far as they have seen what they supposed to be this River, describe it as a smooth stream, with Beaver meadows, and having nowhere a strong current; and if this be the true River Metis, it probably continues of the same description all the way to the St. Lawrence. That even the smallest descent in the above table, namely, a descent of $4\frac{3}{4}$ feet in a mile, is far greater than the fact, must appear clear to any one at all acquainted with the currents of rivers, and especially when we attend to the current of Onion River, in which, rapid and filled with cataracts as it is, Mr. Winthrop finds the descent for the last 43 miles to be only 4 feet in a mile. Thus it seems reduced to an absurdity to suppose that the elevation of Beaver Stream where the north line intersects it is greater or as great as that of the River St. John at the mouth of the Des Chutes.

The above observations are made not from any dissatisfaction with the general result of Captain Partridge's barometrical surveys, which is favorable to His Majesty's claim,* but to shew how little dependence can be placed upon surveys conducted under such circumstances, especially where the gradual rise or descent of so extensive a tract of country is the object of inquiry.

No. 9. [10.]

Remarks upon the "Appendix to the First American Statement," containing "Observations on, and objections to, the Topographical Evidence."

I.

Maps, &c. filed with the Commissioners under the Fifth Article of the Treaty of Ghent.

1.—(No. 7 in *Atlas D.*—Appendix to *First American Statement*, page 42.)

Mr. Odell's Survey of the Restook, with a Sketch of the Country as viewed from Mars Hill, and the vicinity of Houlton Plantation.

The sketch of the country extending westwardly from Mars Hill delineated on Mr. Odell's map of the Restook is objected to by The United States; the whole sketch is called a fanciful representation, and the Highlands represented on it are declared to be fictitious. In answer to these very strong expressions it is to be observed that Mr. Odell when the correctness of his delineations was first called in question by the Agent of The United States, in obedience to a direction from the British Commissioner, proceeded to the place where the Board of Commissioners was then in session, that he might be examined on oath respecting the accuracy of the various reports and plans presented by him to that Board. The satisfaction of thus attesting by a solemn oath the correctness of his reports and plans

* By Captain Partridge's results, the north peak of Mars Hill is made to be 1378 feet, and the south peak to be 1519 feet above tide water in the St. Lawrence, and both to be considerably higher than the highest land on the grand portage. By the same results it appears, that the ground gradually rises from the River St. John to the top of Mars Hill, and that where the exploring line strikes this Hill, the land is 538 feet above tide water in the St. Lawrence.

was denied him solely on account of the unwillingness of the American Commissioner to accede to the prayer in that regard made by the British Agent. The particular sketch now objected to by The United States was a considerable length of time on the files of the Board of Commissioners without any remarks having been made against it, while the British Agent had, a year before Mr. Odell's map of the Restook was admitted on the files of the Board, strongly protested against a map of Mr. Johnson, immediately after it was presented to the Board. It is therefore not easily understood with what right The United States can object to his evidence except it could be proved that the observations upon which his sketch was founded were physically impossible. The following remarks will, however, it is hoped, sufficiently show, that the proof of this latter fact, though attempted by The United States, is not borne out by the circumstances of the case. Mr. Odell had seen the very prominent points, the *great* landmarks, which are numerous in that country (all contained in the list of 112 terrestrial objects observed from Mars Hill by Mr. Johnson), not only at Parks's place and at the station on the Restook, one of these places being south, the other northwest of Mars Hill, but he had likewise seen those objects two successive years from Mars Hill, which was visible both at Parks's and at the station on the Restook. It will be seen by Mr. Johnson's list that some of these heights are of such an elevation, that they must have been easily identified at those stations. The relative situations of two of these stations to each other, *i. e.* Parks's Place and Mars Hill, was very accurately known, and that of the third, on the Restook, to these two very nearly so, and, considering their distance, it is clear, that a good common compass, with which Mr. Odell was always provided, was quite sufficient to ascertain, with a tolerable degree of accuracy, the position of various conspicuous heights, by which the minor elevations visible to the eye could be afterwards laid down. At Mars Hill Mr. Odell had besides two different stations on two peaks whose distance served as a base line, and the use of a Theodolite. How convenient these stations were, in the opinion of Mr. Johnson the Surveyor of The United States, for ascertaining the heights and distances of various peaks, may be judged from his having ascertained, by these two stations only, the elevation and distance of no less than 112 such objects, some of which were between fifty and sixty miles distant from them. Several of these objects thus observed at Mars Hill had been before observed by him at Parks's Place, and he expressly remarks, that the observations made there confirmed those subsequently made at Mars Hill. Many of the high objects were again seen by him, even from Green River Mountain, which is much further distant than the station on the Restook, and perfectly identified. It is, therefore, quite clear that Mr. Odell had ample means, both by his stations and the particular nature of the ground, to ascertain the position of a sufficient number of distinct points, by which he could be guided in the delineation of the smaller objects lying in various relative positions to some of those more prominent land-marks. It must, however, cause some surprise, that the remarks in the American statement, after the flat denial, that the highlands delineated by Mr. Odell could not have been seen for want of proper surveys, should mention the "upper branches of the Restook, and the various tributary streams of the Pe-nobscot, by which the country is intersected in every direction," as these could have been far less the objects of distant observations of the surveyors.

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Reply to American observations on topographical evidence
 App. 1st Brit.
 Stat. p. 169.

App. 1st Brit.
 Stat. p. 169.

App. 1st Brit.
 Stat. p. 169.
 Ibid. p. 169.

App. 1st Brit.
 Stat. p. 169.

Ibid. p. 169.

2.—(No. 9 in Atlas D. *Appendix to First American Statement*, p. 43.)

Mr. Campbell's Sketch of the Height of Land.

The British Agent made for Mr. Campbell the same application to the Board of Commissioners, which he made on behalf of Mr. Odell, viz. : that he might be examined on

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App. 1st Brit. Stat. p. 91.

Ibid. p. 72, 88.

Ibid. p. 147.

oath respecting the accuracy of his delineations; this application was, in like manner, rejected by the American Commissioner. Mr. Campbell was on Cathadin mountain in the month of October 1819, during a clear day, and in March 1820, he explored again the vicinity. Cathadin affords, on account of its great height, a most extensive prospect, and from the top of it, Mars Hill is easily recognized. No time of the year is more favorable for exploring a woody country than the season chosen by Mr. Campbell for his explorations, the month of March, the atmosphere being then generally clear, and the trees without leaves; Mr. Campbell had likewise repeatedly been at Mars Hill in company with the other Surveyors. He, therefore, had more and better opportunities of observing the nature of the country than any other Surveyor, and he has evinced his readiness to give the sanction of an oath to the results of his different explorations. These results are, besides, in a remarkable degree, confirmed by the testimony of The United States' Surveyor, Mr. Loring, who subsequently ascended Cathadin mountain, although under circumstances, by his own confession, little favourable. Mr. Loring expressly mentions the *several mountains* and clumps of mountains between Cathadin and Mars Hill, and says, that this mountainous character belongs to the whole country seen from Cathadin in the direction from 15° E. to S. E. Under such circumstances, it is evident that nothing could have induced The United States to object to the evidence of Mr. Campbell except the inconvenience of admitting what was so strongly in support of the British Claim.

3.—(Nos. 13, 14, 15, 23, 24, 25, 26, in *Atlas D. Appendix to First American Statement*, p. 44.)

Messrs. Burnham's Tiarks' and Carlile's Surveys of certain portages between the respective Sources of some of the tributary streams of the River St. John and the River St. Lawrence.

In the remarks of The United States on these surveys it is asserted, that the valleys, in which the heads of the rivers running in opposite directions approximate most to each other, are mere gaps and notches in the continuous chain of highlands, which, according to these remarks, actually do divide all along their course the waters so situated. Great Britain altogether denies this; The United States have not adduced any evidence from the Surveys in support of this quite gratuitous assertion, nor can a tittle of such evidence be found in any one of the Surveys except perhaps in that part of Mr. Johnson's report, where he pretends to describe the appearance of these dividing Highlands at the distance of an 100 miles from him. The correctness of this description is not less conclusively disproved by the physical impossibility of the observation than by the subsequent explorations on the ground. Great Britain contends that no chain of continuous highlands dividing waters has been observed on the American line for the whole distance from the sources of the River Metis to the spot where the waters of the St. John, Chaudière and Penobscot head together, and that when a chain of any extent has been observed, it has invariably been found to run at right angles to the general direction of the line connecting the points of division of those waters.

4.—(No. 31 in *Atlas D. Appendix to First American Statement*, p. 44.)

Greenleaf's Map of Maine.

It is a most singular circumstance, that The United States, after having given in evidence fifty-seven Maps, mostly of an old date, and almost all constructed by Europeans, in

proof of the position of the Highlands, on which they found their claim, should object to the latest and best particular Map of the now State of Maine, constructed by a citizen of The United States, a native and inhabitant of that part of the country (Maine) on account of the absence on it of those ridges and mountains, and that they should found their objection on the declaration, that in 1815, the date of its first publication, that part of the country in which they are pretended to exist, had been but partially explored. The fact, however, is, that Great Britain, not wishing to rest her claim on the vague opinions of map-makers, did not introduce this Map for the particular purpose to which the objections of The United States are directed. The blue line on this map was intended to mark the mountainous tract described by Greenleaf, in the quotation from his work, which appears in the first British Statement, p. 25, and will be found to be drawn according to that description. The Map with this line upon it was for this purpose laid before the Commissioners, and may therefore be used on this occasion under the provisions of the Convention of the 29th September, 1827.

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Reply to American observations on topographical evidence

II.—British Transcript of Map A.

Highlands. (Appendix to First American Statement, p. 45.)

The American objections to the Highlands marked on the British transcript of the map A have been already answered by the foregoing remarks on Mr. Odell's and Mr. Campbell's plans.

The United States remark, that "the dividing Highlands or ridges are delineated on the American transcript along both the conflicting lines in the same manner as they usually are in topographical maps; by which delineation it is not intended to attach the character of mountains properly so called to such dividing ridges."

If it is meant by this observation to have it implied that it is the common usage of compilers of maps, by such a delineation of Highlands, not to intend "mountains properly so called," or lands distinguished by absolute elevation, but only lands dividing waters flowing in opposite directions, whatever may be their positive height, Great Britain altogether denies the correctness of the observation, and in support of this denial appeals to the mass of maps given in evidence on this occasion by The United States, especially those of American compilation. It is evident throughout all these maps that the intention of such marks is to designate hills and mountains, *High Lands* properly so called, which in very many instances are made to cross rivers and streams far below their sources.

Fief of Madawaska.—Appendix to First American Statement, p. 45.

The United States object that this fief covers in the British transcript at least three times as much territory as is contained in the grant. The first ground of this objection is, that the grant does not contain any land on the banks of the Temisquata Lake. The following are the words of the grant:—"Une étendue de trois lieues de terre le long de chacun des deux bords de la Rivière nommée Madoueska proche la Rivière St. Jean avec le lac appelé Cecemiscouatu et deux lieues de profondeur dans les terres." It is evident that the two

App. 1st Brit. Stat. p. 172

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Am. Transcript of Map A.

leagues inland in depth apply as well to the whole Lake Cecemiscouata, as to the extent of three leagues in length along each bank of the River Madawaska, which are both mentioned before the depth of the grant inland is specified. This is the only construction the grant will admit of. Of what use would be the grant of the water contained in the lake without a single inch of the land on its borders? The American transcript itself has given territory to this fief all around the lake, the same in depth as on the River Madawaska, although the depth being only two miles, is altogether incorrect. Mr. Deane's deposition* proves that Colonel Fraser, the present owner, is by virtue of this fief in possession of territory on the Grand Portage on the Lake Temisquata, and claims under it "six miles all around the lake." The United States next object that the leagues are of twenty-five to the degree. If this be so, then indeed it will be necessary to reduce the representation on the British transcript, on which the league is made equal to three British statute miles, in the ratio of seven to six.

The United States still disposed to make every possible cavil against this Fief of Madawaska, proceed to state an objection of a different character, namely, that no evidence has been adduced in any way proving that this Fief has, subsequent to the conquest of Canada by Great Britain, been held of Canada according to the common acceptance of that term. On this point The United States have themselves furnished evidence. The Fief is described on the American transcript of the map A, as the "Ancient French Seigniori concession claimed by Colonel A. Fraser." And Mr. Deane deposes,† that being at the grand portage leading from Temisquata Lake to the River St. Lawrence, in the month of November 1828, under the authority of The United States, for the purpose of ascertaining certain facts, he was informed by Colonel Fraser, who, as he states, resided and claimed to be the owner of a Seigniori there, "that his title-deeds were at Quebec—that his title was derived through sundry conveyances from the French Government before the cession of Canada. That while possessed by the French Grantee, homage had been done three times at the Castle of St. Louis, according to the terms of the grant. That Dansville, a French officer, whether the original grantee, or not, he could not say, but the owner of it at the time of the conquest, sold this, with all his Seigniories in Canada, to Governor Murray, the first English Governor of Quebec. Governor Murray sold them to Caldwell, and Caldwell bargained them to his father, and he, the present occupant, finally became the purchaser of this, and some Seigniories on the River Du Loup." Now, this description of the Fief on the American transcript, and the facts ascertained by Mr. Deane, necessarily imply that this Fief continues, since the conquest, to be held of Canada in the same manner as The United States are compelled expressly to admit it was before that period. This description, and these facts, tally with the documentary evidence adduced by Great Britain, and annexed to her first statement; and as The United States lay a stress on this point, Great Britain will, in this place, give an abstract of the whole of that evidence. It consists of 15 documents—

1. The original concession dated 25th November, 1683, of the Fief of Madawaska from the Government of Canada to the Children of the Sieur Charles Aubert de la Chenaye subject to the *Foi et hommage*, which the Grantees, their heirs and assigns shall be holden to render at the Castle of St. Louis of Quebec of which they are to hold, and subject to the customary rights and dues in conformity with the *Coutume de Paris*.

2. An adjudication of the Prevotal Court of Quebec, dated 29th October, 1709, by which it appears that the Seigniories of Rivière du Loup (situated on the south bank of the River St. Lawrence) and Madawaska were seized by virtue of a sentence of the said Prevotal Court as a part of the real property (*biens immeubles*) belonging to the succession of the said Sieur de la Chenaye, and were sold to Joseph Blondeau dit la Franchise as ne

App. 1st. Brit. Stat. p. 172.

Ibid. p. 174.

* No. 57 in list of American written evidence communicated on the 30th Dec. 1828.

† Ibid.

highest bidder at a public judicial sale for the sum of 1300 livres, and were accordingly adjudged to the said Joseph Blondeau.

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App 1st Brit. Stat. p. 176.

3. Act of *Foi et hommage*, 13th February 1723, rendered by the said Joseph Blondeau dit la Franchise for the said Fiefs of Rivière du Loup and Madawaska, wherein his muniments of title to both these Fiefs are set forth at large, those for the Fief of Madawaska being the aforesaid original concession of 25th November 1683.—and the aforesaid adjudication of the 29th October, 1709.

4. Act of *aveu et denombrement* of the said Fiefs of Rivière du Loup and Madawaska by the said Joseph Blondeau dit la Franchise, dated 15th February 1723, whereby it appears that on the Fief of Madawaska there was a domain, on which the buildings had been burnt down by the Indians, that there were about six “arpens” of land cleared, but at that time no settled inhabitant.

Ibid, p. 179

5. An adjudication by the Prevotal Court of Quebec, dated 29th July 1755, founded on what is called in the next succeeding document, a voluntary judicial sale (*decret volontaire*) of the said fiefs of Rivière du Loup and Madawaska to Pierre Claverie.

Ibid, p. 181.

6. Act of *Foi et hommage*, 19th March, 1756, rendered by the said Pierre Claverie for the said fiefs of Rivière du Loup and Madawaska, wherein his muniments of title to both fiefs are also set forth at large, those for the Fief of Madawaska being as follows:—The original concession of the 25th November 1683, to the children of the Sieur de la Chenaye; the adjudication of the 29th October 1709, to Joseph Blondeau dit la Franchise; the act of fealty and homage of the 13th February 1723, and the act of *aveu et denombrement* of the 15th February 1723, by the said Joseph Blondeau; an act of cession, dated 28th April, 1754, by the widow of the said Joseph Blondeau to her children by him; an act of sale, dated 21st October, 1754, by the said children and heirs of Joseph Blondeau to the said Pierre Claverie; and the voluntary judicial sale to the said Pierre Claverie of the 29th July, 1755. This act of *Foi et hommage* also states that the sale of the two fiefs had been made in one lot and for one price, and in order to ascertain the *droit du quint*, payable to the King's domain, according to the *coutume de Paris*, for the net of Madawaska, the particular price of that fief is by an amicable valuation estimated at 2316 livres 13 sols and 4 deniers, being one-fourth part of the whole price of the two, upon which particular price only the *droit du quint* was to be payable, the domanial dues upon the fief of Rivière du Loup being of a different character, namely, a fine on every mutation of three golden *écus* at the rate of six livres each.

Ibid, p. 183

Ibid, p. 185

7. Receipt for the domanial dues on the said Fiefs of Rivière du Loup, and Madawaska, dated 8th May, 1756. The dues on the Fief of Rivière du Loup, being as above mentioned, three golden *écus*; and the *droit du quint* on the sum of 2316l. 13s. 4d. the particular price agreed upon for the Fief of Madawaska being 463l. 6s. 5d.

Ibid, p. 188.

8. Deed of Sale, dated the 28th July, 1763, from J. A. N. Dandaune Danseville and Marie Anne Dupéré his wife, she being the late widow and *commune en biens* of the said Pierre Claverie, and also guardian of Marie Julie Claverie, with the consent of Marie Anne Monny, grand-mother and co-guardian of the said Julie Claverie, and of Jaques Perault, deputy guardian (*Subrogé Tuteur*) of the said minor, to His Excellency James Murray, Governor of Quebec, of the said Fiefs of Rivière du Loup and Madawaska, such as the whole belonged to the said Pierre Claverie, by the Deed of Sale of the 21st October, 1754, and the adjudication of the 29th July, 1755, which deed of sale and adjudication with the ancient title deeds were handed over to the purchaser, the price being 40,000 livres tournois.

Ibid, p. 190.

9. A deed of assignment, by Richard Murray, to Malcolm Fraser, dated 2d August, 1768, of an indenture of lease made by the above-mentioned General James Murray, to the said Richard Murray and Malcolm Fraser. This assignment recites the above-mentioned indenture of lease as bearing date on the 10th May 1766, and as comprising the seigniori of the River du Loup, situated on the south side of the River St. Lawrence, in

Ibid, p. 191

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Ibid, p. 186

the Province of Quebec, and also "all that Fief of Madawaska on Madawaska River, in the said Province." This deed of assignment is duly registered in the registry of the said Province of Quebec.

Ibid, pp. 200, 201.

9. A lease from the said General James Murray to Henry Caldwell, dated 7th April, 1774, of the said Seigniories of Rivière du Loup and Madawaska, and also a Seignior on Lake Champlain, a house in Quebec, another Fief in the Seignior of Sillery, the Seignior of Lauzon, and "all and singular other the estates and possessions of the said James Murray, in the Province of Quebec, in North America." This deed contains a clause, that any grants in fee farm, made by virtue of a power for that purpose contained in it, "shall be enrolled in some public office for enrollment of deeds at Quebec aforesaid," and is itself also duly registered in the registry of the Province of Quebec. It appears from the indorsements upon it, and the papers annexed to it, to have been already produced as evidence in the Circuit Court of the United States, for the State of Vermont, in the year 1804, in a cause in which Mr. Henry Caldwell was plaintiff, probably for the purpose of proving his title under it to the Seignior on Lake Champlain, mentioned in it, as the State of Vermont borders upon Canada in that quarter. In this deed, the Fief of Madawaska is described and treated as being in the province of Quebec, equally with all the other estates on the banks of the St. Lawrence, in the city of Quebec, and on Lake Champlain, mentioned in it.

Ibid, p. 203

10. A lease from Henry Caldwell to Malcolm Fraser, dated 24th September, 1782, of the Seignior of Rivière du Loup and Madawaska, in which the lease above cited of the 7th April, 1774, from General Murray to Mr. Caldwell, is referred to, and which contains a similar provision that any grants in fee farm made under the power contained in it, shall be enrolled in some public office for enrollment of deeds at Quebec. This lease is also duly registered in the registry of the province of Quebec.

Ibid, p. 207.

11. An Act of Confirmation before a notary, dated 27th December, 1786, of the above cited Lease of the 24th of September, 1782, from Henry Caldwell to Malcolm Fraser. This Act is done and passed at Quebec, and is stated expressly to be so done, because, by the laws of that country, it was proper, and might have been necessary, that the said lease, which it confirms, should have been passed before one or more notaries. This Act of Confirmation is also duly registered in the Registry of the province of Quebec.

Ibid, p. 205.

12. List of Parishes, Seigniories, Fiefs, &c., in the Province of Quebec, extracted from the Council Books of that Province for the year 1791. In this list, after the entry of the Parish of Madawaska, is the following minute:—"Malcolm Fraser, Esq., reports a seigneurie to be in his possession, called Madawaska, near the River St. John, being of extent three leagues on each side of the River Madawaska, together with the Lake Temiscouata, and two leagues in depth." Mr. Malcolm Fraser must have been so in possession of the fief of Madawaska in the year 1791 under the title above recited.

Ibid, p. 209.

13. Deed of Sale from the Trustees and Executors of General James Murray to Henry Caldwell, dated 21st June, 1802. In this deed are recited the will of General Murray, authorizing his trustees and executors to sell his estates in Canada for the benefit of his son, and a power of attorney from the trustees and executors to the person who executes the deed on their behalf, to appear before any notary or notaries in the Province of Lower Canada, and to execute any conveyance that may be necessary according to the laws, statutes, usages, and customs of the said Province of Lower Canada. It then conveys the seignior of Rivière du Loup, and Fief of Madawaska, together with the other particular parcels of property which are mentioned in the above lease of the 7th April, 1774, (No. 11, ante), and all "other the estates and possessions late of him the said James Murray, deceased, in the Province of Quebec (now Provinces of Upper and Lower Canada,) in North America."

This deed is according to the forms of Canadian Law, duly passed before a notary at Quebec. Appendix.

14. An agreement between Henry Caldwell, and Alexander Fraser, dated 5th October, 1801. This agreement states that Mr. Caldwell had made an agreement with the trustees and executors of General Murray, for the purchase of all his property in Canada, and contains a covenant on his part, in consideration of the sum of 1766*l.*, sterling money of Great Britain, received by him from Alexander Fraser by the hands of Malcolm Fraser, (as soon as his purchase from the trustees and executors of General Murray is completed) to convey among other things "*the Seignior of Rivière du Loup, and Fief of Madawaska, together with the Lake Temisquata, and the lands adjoining thereto, . . . as particularly described in the original title deeds of the said Seignior of the said Rivière du Loup, Fief of Madawaska and Lake Temisquata . . . as the same was purchased by the said General James Murray of Mr. Dansville, which said lands and Seigniories are situated in the said Province of Lower Canada, . . . subject to certain indentures of lease made by and between the said Henry Caldwell, and the said Malcolm Fraser, bearing date the 24th day of September, 1782.*" This deed is also passed according to the forms of Canadian law before a notary at Quebec.

15. Deed of sale from Henry Caldwell to Alexander Fraser, dated 2nd of August 1802, of the Seignior of Rivière du Loup, and Fief of Madawaska, in pursuance of the agreement last above cited (No. 14). Ibid. p. 212

If this be not a regular and complete deduction of title to the Fief of Madawaska under the original concession in 1683, and a continued and uninterrupted holding under the province of Canada both before and since the conquest quite down to the present day, when the last purchaser, Alexander Fraser, is proved, even by American testimony, to be in the actual possession and enjoyment of the property under this claim of title, and subject to the conditions of the original grant, Great Britain is at a loss to conceive what evidence can be required for that purpose. But, say The United States, no acts of fealty and homage have been done since the conquest. These feudal services, it is true, may, since the conquest by Great Britain, have been suffered to fall into disuse with respect to all the lands in Canada held *en fief*; but the objection would equally apply to the Seignior of the Rivière du Loup, or any other Canadian Seignior on the banks of the St. Lawrence, as to the Fief of Madawaska.

River St. John.—Appendix to First American Statement, p. 46.

The United States contend that the boundary along the River St. John, from its source to its mouth, first proposed by the old Congress as the most favourable line which they could obtain, was not intended to follow that river from its mouth to the spot now acknowledged as its source, but was to run along the river now and always known by the name of Madawaska River, and to its source beyond Temisquata Lake. This assertion is not supported by any proof, and a reference to any map of any authority at that time will shew, that the extent of the River St. John westward, and the comparative smallness of its northern branches, was so well known that the expression, "from its source to its mouth," without any further description, could mean nothing but the whole extent of the River St. John, nearly as at present known. Whether the source was actually at the spot now considered as such, or at the head of the western branch, is of such trifling moment in the present argument, that it would be quite useless to discuss this particular point. The only question of importance is, whether the old Congress, in speaking of the River St. John from its source to its mouth considered that source to be on one of the western or one of the northern branches, and all the maps will shew that the words "source of the St. John" must refer to one of the western sources of the Trunk, or main River, contradistinguished

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from any of its lateral branches, especially such a branch as the Madawaska River, which, it is in evidence, has been known, at least since the year 1683, the date of the original concession of the field of Madawaska, by this distinct name. This interpretation is likewise the one adopted by the American Commissioners, who concluded the Treaty of 1783. According to Mr. Adams's testimony, they understood, when advancing this claim proposed by Congress, by the words which they used, the whole of the River St. John, as laid down on Mitchell's map, and that map contains the name "River St. John," laid down near the western sources. When the words made use of are so clear in indicating the whole of the River St. John from its mouth to its source as the boundary, the single circumstance that this river was only described as forming the eastern boundary, while it actually likewise forms a part of the northern boundary, can evidently not have the effect which The United States would seem to attribute to it. And it is to be further remarked that, although in the original instruction of the Congress the St. John is described as the eastern boundary, yet in the Report of the 16th August 1782, when the same instruction is under consideration, the wish is stated that the north-eastern boundary of Massachusetts may be left to future discussion, and this north-eastern boundary can be no other than the River St. John, which is thus recognized as a northern as well as eastern boundary arising from its bend to the westward.

Madawaska Settlement.—Appendix to First American Statement, p. 46.

The United States appear to throw out a doubt, whether it has been proved that the Madawaska Settlement has been subject to the jurisdiction of Great Britain, from its establishment in 1783 to the present day. Now, wherever the right to the Territory and Sovereignty of this tract of country may dwell, it is indisputable, and all evidence adduced on either side on the present occasion concurs to establish, that the actual possession of it, and the exercise of jurisdiction over it, commencing before the Treaty of 1783, has continued in Great Britain quite down to the present day. The inhabitants, almost without exception natural born British subjects, were, for the first time, included in the census of The United States in the year 1820, and then amounted to upwards of 1100 souls.* It cannot be denied that this must be considered as an assertion of right on the part of The United States† to this tract of country, whatever exceptions may lie to such a mode of asserting a right to an actual British Settlement. But the actual British jurisdiction, first Canadian, then conflicting between Canada and New Brunswick, and, since 1792, uninterruptedly New Brunswick, but, nevertheless, all the while the jurisdiction of the King of Great Britain, in whose‡ name it is uniformly exercised, has never been changed. The United States, under the provisions of the present Convention of Reference, applied to Great Britain§ for authentic copies

* See extract from census for The United States for the year 1820. App. to 1st British Statement, p. 287. In the column of the census in which the Matawa-ka Settlement is included, there are but two settlements of equal amount.

† It appears also, that in 1825, the land agents of the States of Maine and Massachusetts undertook to give deeds of land to two American citizens in this Settlement, one of whom was on the point of being naturalized as a British subject, and had actually received a bounty from the Province of New Brunswick for grain raised on the land which he occupied, and of which these agents gave a deed; at this very time also, as well as before and since, the British laws, both in civil and criminal matters, being in force among the few American settlers, as well as the natural born British subjects. See the history of this transaction in Mr. Barrell's Report. Appendix to 1st British Statement, p. 252.

‡ Grants of land run in the King's name. See Appendix to 1st British Statement, Nos. 35, 36, and 37, pp. 254, 258, 260. So all judicial proceedings, see Trial of John Baker, *ibid.* No. 38. p. 266.

§ See Mr. Barbour's Letter to the Earl of Aberdeen. 22nd September, 1828, American Statement. Writer Evidence. No. 31

of certain documents which shewed particular acts of jurisdiction in this tract of country by the authorities of the Province of New Brunswick, and have obtained them; and Great Britain, on her part, has brought forward, and lays before the Arbiter, documents which disclose the whole state of the facts and the conflicting Provincial pretensions relating to it.

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Communication between the British Provinces.—Appendix to first American Statement, p. 46.

The United States suggest that, when they have got possession of their own territory, Great Britain will nevertheless be enabled to maintain the communication between her Provinces, by opening a road from the Great Falls of the River St. John towards the St. Lawrence, through her acknowledged dominions; without any allusion to a circumstance which appears by evidence they themselves have adduced,* that the least difficult communication even between the district of Gaspé, part of the Province of Lower Canada, and Quebec its Capital, is by following up the Restigouche near to its source, then crossing to the St. John, and thence by going by way of *Temisquata Portage* to the St. Lawrence, would thus be placed within the territory of a foreign Power. The road proposed by The United States to remedy the inconveniencies that would be experienced by Great Britain, from a decision in favour of the American claim would find none of the facilities derived from following the valleys of rivers, at least until reaching the head waters of the River Metis, flowing into the St. Lawrence. The road would be upwards of one hundred miles in a direct line from the Great Falls of the St. John to the St. Lawrence, and it would have to traverse a country densely covered with forests, interspersed with numerous morasses, and totally destitute of any other inhabitants than a few straggling Indians; it must also cross the high banks of numerous rivers and deep ravines, and would necessarily present obstacles to its formation, perfectly insurmountable by the present resources of the British Colonies in that quarter.

III.—Hale's Map of New England.

Appendix to First American Statement, p. 46.

Some of the remarks made on the objections of The United States to Greenleaf's map apply with equal force to those made against Hale's map of New England. This map strongly confirms the two following positions, viz. 1st. That no settled opinion respecting the northern boundary of the present State of Maine has ever existed in The United States; and, 2dly, That map makers having all facilities, and apparently honest intentions, are not to be relied on in the delineation of lines of boundary. It was published in the capital of a State greatly interested in this question, in the year 1826, ten years after the discussions under the Treaty of Ghent had directed the attention of the American public to the subject of the northern boundary of The United States, and the delineation of various rivers indisputably shews that the compiler had access to the maps constructed under the authority of the late Commission, and yet the map presents a northern boundary of the State of Maine, neither agreeing with the claim of The United States, nor with that of Great Britain, and, consequently, if not altogether founded in error, expressive of the author's private opinion only. It is worthy of remark, that among the specific objections adduced against this map no allusion is made to the location there given to the tract granted

Appendix.

Remarks upon
certain Documents
communicated by
The United States
in answer to the
demand of the
British Govern-
ment, may be
presumed to be
correctly represented
thereon. The
specific object for
which this map was
annexed to the
First British Statement
being thus fully
answered, Great
Britain again dis-
claims all incidental
advantage which
she might derive
from it, either with
respect to the
northwest angle
of Nova Scotia,
or to the north-
westernmost head
of Connecticut
River.

in the year 1789 by the State of New Hampshire to the Trustees of Dartmouth College, which, in the absence of any topographical evidence among the documents relative to this grant communicated by The United States in answer to the demand of the British Government, may be presumed to be correctly represented thereon. The specific object for which this map was annexed to the First British Statement being thus fully answered, Great Britain again disclaims all incidental advantage which she might derive from it, either with respect to the northwest angle of Nova Scotia, or to the north-westernmost head of Connecticut River.

No. 11.

Remarks upon certain Documents communicated by The United States, or of which Copies have been furnished by Great Britain upon the application of The United States, and which have not been cited in the first American Statement.

The United States in conformity with the provisions of the Convention of the 29th of September, 1827, having communicated to Great Britain, and having also been furnished by Great Britain upon their application with Copies of various Documents intended to be laid before the Arbitrer as fresh Evidence, which have not been cited in the first American Statement, but which may nevertheless be brought forward in the second Statement of that Power, Great Britain deems it expedient in this place to take notice of some of these Documents, and to submit the following remarks thereon, in case they shall be so made use of by The United States.

Extracts from the Argument of His Britannic Majesty's Agent before the Commissioners, under the fifth Article of the Treaty of 1794. [No. 42 in List of American Written Evidence communicated on the 30th December, 1828.]

After the express declaration of The United States in their first Statement, that, "The Acts of the two Powers or of the Local Governments, and the opinions which may have been expressed by any of their Officers in relation to the contested Territory, since the Treaty of 1783, can at best be adduced but by way of illustration: they can throw no light on the intentions of the Framers of the Treaty of 1783; they cannot impair the rights of either party, that are derived from the express and explicit provisions of the Treaty," it is scarcely to be supposed that any stress will be laid on these Arguments of a British Agent under the Treaty of 1794.

These Arguments were directed to shew that the source of the River St. Croix must be placed at the head of its western branch, in conformity with the description of that River, as a Boundary of Nova Scotia, in Sir William Alexander's Charter.

The decision of the Commissioners, to whom they were addressed, has placed the source of the St. Croix intended in the Treaty of 1783 at the head of its northern Branch,* and this very circumstance shews that the north-west angle of Nova Scotia has never, either before or since the Treaty of 1783, been a known and determinate point.

Indeed nothing can more strongly evince the uncertainty of these old Provincial

* See American Statement, p. 2, and Written Evidence annexed thereto. No. 2.

Boundaries, than the various and conflicting views, which have been advanced in relation to them, whenever they have been a topic of discussion.

Appendix.

Remarks on Evidence not adverted to in the 1st American Statement.

Extracts from the Protocols and Correspondence of the Ghent Commissioners in 1814.—
[No. 71 in list of American Written Evidence, communicated on the 30th December, 1828.]

The whole of these documents shew the uncertainty of the question of boundary.

The British Plenipotentiaries at Ghent, in their note to the American Plenipotentiaries, of September 4th, 1814, proceed as follows :—“ *The American Plenipotentiaries must be aware that the boundary of the district of Maine has never been correctly ascertained; that the one asserted at present by the American Government, by which the direct communication between Halifax and Quebec becomes interrupted, was not in contemplation of the British Plenipotentiaries who concluded the Treaty of 1783, and that the greater part of the territory in question is actually unoccupied.*”

In the Note No. 6, dated November 10th, 1814, the American Plenipotentiaries express themselves as follows :—

“ In respect to the intended review of the other Boundaries between the British and American Territories with the view to prevent future uncertainty and dispute, the Undersigned propose the reference of the whole subject to Commissioners, and they present accordingly five Articles drawn on the principles formerly adopted by the two Powers for settling the question respecting the River St. Croix.”

Then followed the Treaty, referring, according to the proposition of the American Plenipotentiaries, the whole subject of disputed Boundary to Commissioners, including the points of difference now in controversy, and substituting for the mode adopted in the case of the St. Croix, of choosing a third Commissioner by lot, if the original Commissioners should not agree in the nomination, the present much more satisfactory course of referring any points, upon which the two Commissioners appointed by the two Powers respectively should disagree, to the final arbitrement of a friendly Sovereign or State. The Treaty thus concluded contains the express declaration, that “ *neither that point of the Highlands lying due north from the source of the River St. Croix designated in the former Treaty of Peace between the two Powers as the north-west angle of Nova Scotia, nor the north-westernmost head of Connecticut River, have yet been ascertained.*”

Provincial Laws and Grants of Land in New Brunswick.—[Nos. 18 to 39 in Mr. Barbour's List, Nos. 50 to 54 in List of American Evidence communicated on the 30th December, 1828.]

The remarks before cited from the first American Statement, relating to Acts subsequent to the Treaty of 1783, will also apply to these Documents, which are all of a later date than that instrument.

The object of producing them, as evidence on this occasion, would seem to be to shew an actual jurisdiction by the British Province of New Brunswick, as against her sister Province of Canada, on the upper part of the River St. John, and as far north as the River Restigouche.* Whatever might be the effect of this evidence in a controversy as to limits between the above named British Provinces, which can only be decided by a British Tribu-

* A line along the channel of a River can never be a line along “Highlands.”

Appendix.

Remarks on Evidence not adverted to in the 1st American Statement.
1st Brit. Stat. p. 21.

nal, it establishes, in the present national controversy against The United States a clear British possession and jurisdiction in the places in question. When taken in connexion with the claim of Canada to jurisdiction and territory as far down as the Great Falls of the River St. John, it also clearly proves, in opposition to the American argument in this discussion, the uncertain and unsettled condition of the provincial limits.

Depositions of certain Inhabitants of Madawaska, and of John G. Deane, touching the Boundary of Canada. [Nos. 56 and 58 in List of American Written Evidence, communicated on the 30th December, 1828.]

Mr. Deane, who describes himself as acting "under the authority of The United States," has undertaken to receive, in his capacity of Notary Public of the State of Maine, the depositions of a few Peasants, only one of whom was able to write his name, for the ostensible purpose of establishing a reputed Provincial Boundary, without any notice of such transaction being given to any British authority. He also makes his own deposition of what was told to him.

Evidence such as this can have no weight. Mr. Deane* has made a further deposition detailing a conversation with Colonel Fraser, the Seigneur of Madawaska, relating to his title to that Fief. Colonel Fraser was the most, if not the only, competent person to give him information as to any reputed Provincial Boundary in that quarter; and yet from Colonel Fraser he seeks no information on this point. The stories of the Madawaska Peasants, as detailed by Mr. Deane, are altogether at variance with other evidence in the cause, by which it is distinctly proved that the whole of the road on the Temisquata portage from the River St. Lawrence to the Lake Temisquata was originally laid out, and has been kept in repair and maintained by the Government of Canada alone,† by authority of which Government also settlers were placed on that road in the year 1814: and it appears from the census of The United States taken in 1820 that the inhabitants of the Madawaska settlement on the River St. John, more than forty miles below the place, where the Temisquata road meets the lake, then "*supposed they were in Canada.*"

1st Brit. Stat. p. 24.

* See No. 57, in list of American Written Evidence, communicated on the 20th December 1828.

† See Appendix to First British Statement. No. 30. and Bouchette's *Topography of Canada*, p. 532, et seq.

DECISION OF THE ARBITER.

Nous, GUILLAUME, *par la grace de Dieu, Roi des Pays-Bas, Prince d'Orange-Nassau, Grand Duc de Luxembourg, &c. &c. &c.*

Ayant accepté les fonctions d'Arbitrateur, qui Nous ont été conférées par la note du Chargé d'Affaires des Etats Unis d'Amérique, et par celle de l'Ambassadeur Extraordinaire et Plénipotentiaire de la Grande Bretagne, à Notre Ministère des Affaires Etrangères, en date du 12 Janvier 1829, d'après l'art: V. du traité de Gand, du 24 Décembre 1814, et l'art: I de la convention conclue entre ces Puissances à Londres le 29 Septembre 1827, dans le différend, qui s'est élevé entre Elles au sujet des limites de leur possessions respectives.

Animés du désir sincère de répondre par une décision scrupuleuse, et impartiale à la confiance, qu'Elles Nous ont témoignée, et de leur donner ainsi un nouveau gage du bon prix que Nous y attachons:

Ayant à cet effet dûment examiné, et mûrement pesé le contenu du Premier Exposé ainsi que de l'Exposé Définitif du dit différend, que Nous ont respectivement remis le premier Avril de l'année 1830 l'Envoyé Extraordinaire et Ministre Plénipotentiaire des Etats Unis d'Amérique, et l'Ambassadeur Extraordinaire et Plénipotentiaire de sa Majesté Britannique, avec toutes les pièces, qui y ont été jointes à l'appui:

Voulant accomplir aujourd'hui les obligations, que Nous venons de contracter par l'acceptation des fonctions d'Arbitrateur dans le susdit différend, en portant à la connaissance des deux Hautes Parties Intéressées le résultat de Notre examen, et Notre opinion sur les trois points, dans lesquels se divise, de leur commun accord, la contestation:

Considérant, que les trois points précités doivent être jugés d'après les traités, actes et conventions conclus entre les deux Puissances, savoir, le traité de paix de 1763, le traité d'amitié, de commerce et de navigation de 1794, la déclaration relative à la rivière St. Croix de 1798, le traité de paix signé à Gand en 1814, la convention du 29 Septembre 1827, et la carte de Mitchell, et la carte A. citées dans cette convention:

Declarons, que:

Quant au premier point, savoir, la question, quel est l'endroit désigné dans les traités, comme l'Angle Nord-Ouest de la Nouvelle Ecosse, et quels sont les *highlands* séparant les rivières, qui se déchargent dans le fleuve St. Laurent, de celles tombant dans l'Océan Atlantique, le long desquels doit être tirée la ligne de limites depuis cet Angle jusqu'à la source Nord-Ouest de la rivière Connecticut:

Considerant:

Que les Hautes Parties Intéressées réclament respectivement cette ligne de limites au midi et au nord de la rivière St. John, et ont indiqué chacune sur la carte A. la ligne qu'elles demandent:

Arbiter's Decision. *Considerant :*

Northwest
Angle of Nova Scotia.

Que selon les exemples allégués, le terme *highlands* s'applique non seulement à un pays montagneux ou élevé, mais encore à un terrain, qui, sans être montagneux, sépare des eaux coulant dans une direction différente, et qu'ainsi le caractère plus ou moins montagneux et élevé du pays, à travers lequel sont tirées les deux lignes respectivement réclamées au nord et au midi de la rivière St. John, ne saurait faire la base d'une option entre elles :

Que le texte du second article du traité de paix de 1783 reproduit en partie les expressions, dont on s'est antérieurement servi dans la Proclamation de 1763, et dans l'Acte de Québec de 1774, pour indiquer les limites méridionales du Gouvernement de Québec, depuis le lac Champlain, "in forty-five degrees of north latitude along the highlands, which divide the rivers that empty themselves into the river St. Lawrence from those which fall into the sea, and also along the north coast of the bay des Chaleurs:"

Qu'en 1763, 1765, 1773, et 1782, il a été établi, que la Nouvelle Ecosse serait bornée au nord, jusqu'à l'extrémité occidentale de la baie des Chaleurs, par la limite méridionale de la province de Québec; que cette délimitation se retrouve pour la province de Québec dans la commission du Gouverneur Général de Québec de 1786, où l'on a fait usage des termes de la Proclamation de 1763, et de l'Acte de Québec de 1774; et dans les Commissions de 1786, et postérieures, des Gouverneurs du Nouveau Brunswick pour cette dernière province, ainsi que dans un grand nombre de cartes antérieures et postérieures au traité de 1783; et que l'article premier du dit traité cite nominativement les Etats, dont l'indépendance est reconnue :

Mais que cette mention n'implique point l'entière coïncidence des limites entre les deux Puissances, réglées par l'article suivant, avec l'ancienne délimitation des provinces Anglaises, dont le maintien n'est pas mentionné dans le traité de 1783, et qui par ses variations continuelles, et par l'incertitude, qui continua d'exister à son égard provoqua de temps à autre des différends entre les autorités provinciales :

Qu'il résulte de la ligne tirée par le traité de 1783 à travers les grands lacs à l'ouest du fleuve St. Laurent, une déviation des anciennes chartes provinciales, en ce qui concerne les limites :

Qu'on chercherait en vain à s'expliquer, pourquoi, si l'on entendait maintenir l'ancienne délimitation provinciale, l'on a précisément fait usage dans la négociation de 1783 de la carte de Mitchell, publiée en 1755, et par conséquent antérieure à la Proclamation de 1763, et à l'Acte de Québec de 1774 :

Que la Grande Bretagne proposa d'abord la rivière Piscataqua pour limite à l'est des Etats Unis, et ensuite n'accepta pas la proposition de faire fixer plus tard la limite du Maine, ou de Massachusetts Bay :

Que le traité de Gand stipula un nouvel examen sur les lieux, lequel ne pouvait s'appliquer à une limite historique, ou administrative :

Et que dès lors l'ancienne délimitation des provinces Anglaises n'offre pas non plus une base de décision :

Que la longitude de l'angle Nord-Ouest de la Nouvelle Ecosse, laquelle doit coïncider avec celle de la source de la rivière Ste. Croix, fut seulement fixée par la Déclaration de 1798, qui indiqua cette rivière :

Que le traité d'amitié, de commerce et de navigation de 1794 mentionne le doute, qui s'était élevé à l'égard de la rivière Ste. Croix, et que les premières instructions du Congrès lors des négociations, dont résulta le traité de 1783, placent le dit angle à la source de la rivière St. John :

Que la latitude de cet angle se trouve sur les bords du St. Laurent selon la carte de Mitchell, reconnue pour avoir réglé le travail combiné et officiel des négociateurs du

traité de 1783, au lieu qu'en vertu de la délimitation du Gouvernement de Québec, l'Angle Nord-Ouest devrait la chercher aux *highlands* séparant les rivières, qui se déchargent dans la rivière St. Laurent, de celles tombant dans la mer:

Que la nature du terrain à l'est de l'angle précité n'ayant pas été indiquée dans le traité de 1783, il ne s'en laisse pas tirer d'argument pour le fixer de préférence dans tel endroit plutôt que dans un autre:

Qu'au surplus, si l'on croyait devoir le rapprocher de la source de la rivière Ste. Croix, et le chercher par exemple à *Mars-hill*, il serait d'autant plus possible, que la limite du Nouveau Brunswick tirée de là au Nord-Est donnât à cette province plusieurs Angles Nord-Ouest, situés davantage au nord, et à l'est selon leur plus grand éloignement de *Mars-hill*, que le nombre de degrés de l'angle mentionné dans le traité a été passé sous silence.

Que par conséquent l'angle Nord-Ouest de la Nouvelle Ecosse, dont il est ici question, ayant été inconnu en 1783, et le traité de Gand l'ayant encore déclaré non constaté, la mention de cet angle historique dans le traité de 1783 doit être considérée comme une pétition de principe, qui ne présente aucune base de décision, tandis que si on l'envisage comme un point topographique, en égard à la définition, "viz, that angle, which is formed by a line drawn due north from the source of the St. Croix river to the highlands," il forme simplement l'extrémité de la ligne "along the said highlands, which divide those rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean:"—extrémité que la mention de l'angle Nord-Ouest de la Nouvelle Ecosse ne contribue pas à constater, et qui, étant à trouver elle même, ne saurait mener à la découverte de la ligne, qu'elle termine:

Enfin que les argumens tirés des droits de souveraineté exercés sur le lief de Madawaska, et sur le Madawaska Settlement, admis même que cet exercice fut suffisamment prouvé, ne peuvent point décider la question, par la raison que ces deux établissemens n'embrassent qu'un terrain partiel de celui en litige: que les Hautes Parties Intéressées ont reconnu le pays situé entre les lignes respectivement réclamées par Elles, comme faisant un objet de contestation, et qu'ainsi la possession ne saurait être censée déroger au droit: et que si l'on écarte l'ancienne délimitation des provinces alléguée en faveur de la ligne réclamée au nord de la rivière St. John, et spécialement celle mentionnée dans la Proclamation de 1763, et dans l'Acte de Québec de 1774, l'on ne saurait admettre à l'appui de la ligne demandée au midi de la rivière St. John, des argumens tendant à prouver que telle partie du terrain litigieux appartient au Canada, ou au Nouveau Brunswick:

Considérant:

Que la question, dépouillée des argumens non décisifs tirés du caractère plus ou moins montueux du terrain, de l'ancienne délimitation des provinces, de l'angle Nord-Ouest de la Nouvelle Ecosse, et de l'état de possession, se réduit en dernière analyse à celles-ci:—quelle est la ligne tirée droit au nord depuis la source de la rivière Ste. Croix; et quel est le terrain, n'importe qu'il soit montueux et élevé ou non, qui, depuis cette ligne jusqu'à la source Nord-Ouest de la rivière Connecticut, separe les rivières se déchargeant dans le fleuve St. Laurent, de celles, qui tombent dans l'Océan Atlantique; que les Hautes Parties Intéressées ne sont d'accord que sur la circonstance, que la limite à trouver doit être déterminée par une telle ligne, et par un tel terrain; qu'Elles le sont encore, depuis la Declaration de 1798, sur la réponse à faire à la première question, à l'exception de la latitude à laquelle la ligne tirée droit au nord de la source de la rivière Ste. Croix doit se terminer; que cette latitude coïncide avec l'extrémité du terrain qui, depuis cette ligne jusqu'à la source Nord-Ouest de la rivière Connecticut, separe les rivières, se déchargeant dans le fleuve St. Laurent de celles qui tombent dans l'Océan Atlantique; et que dès lors il ne reste, qu'à déterminer ce terrain:

Qu'en se livrant à cette opération, on trouve d'un côté :

D'abord, que si par l'adoption de la ligne réclamée au nord de la rivière St. John, la Grande Bretagne ne pourrait pas être estimée obtenir un terrain de moindre valeur, que si elle eut accepté en 1783 la rivière St. John pour frontière, eu égard à la situation du pays entre les rivières St. John et Ste. Croix dans le voisinage de la mer, et à la possession des deux rives de la rivière St. John dans la dernière partie de son cours, cette compensation serait cependant détruite par l'interruption de la communication entre le Bas Canada, et le Nouveau Brunswick, spécialement entre Québec et Fredericton, et qu'on chercherait vainement, quels motifs auraient déterminé la Cour de Londres à consentir à une semblable interruption :

Que si, en second lieu, en opposition aux rivières se déchargeant dans le fleuve St. Laurent, on aurait convenablement, d'après le langage usité en géographie, pu comprendre les rivières tombant dans les baies de Fundy et des Chaleurs, avec celle se jettant directement dans l'Océan Atlantique, dans la dénomination générique de rivières tombant dans l'Océan Atlantique, il serait hasardeux de ranger dans l'espèce parmi cette catégorie les rivières St. John et Ristigouche, que la ligne réclamée au nord de la rivière St. John sépare immédiatement des rivières se déchargeant dans le fleuve St. Laurent, non pas avec d'autres rivières coulant dans l'Océan Atlantique, mais seules, et d'appliquer ainsi, en interprétant la délimitation fixée par un traité, où chaque expression doit compter, à deux cas exclusivement spéciaux, et où il ne s'agit pas du genre, une expression générique, qui leur assignerait un sens plus large, ou qui étendue aux Scoudiac Lakes, Penobscot et Kennebec, qui se jettent directement dans l'Océan Atlantique, établirait le principe, que le traité de 1783 a entendu des *highlands* séparant, aussi bien médiatement qu'immédiatement, les rivières se déchargeant dans le fleuve St. Laurent, de celles, qui tombent dans l'Océan Atlantique—principe également réalisé par les deux lignes :

Troisièmement, que la ligne réclamée au nord de la rivière St. John ne sépare pas, même immédiatement, les rivières se déchargeant dans le fleuve St. Laurent, des rivières St. John et Ristigouche, mais seulement des rivières, qui se jettent dans le St. John et Ristigouche, à l'exception de la dernière partie de cette ligne près des sources de la rivière St. John; et qu'ainsi pour arriver à l'Océan Atlantique les rivières séparées par cette ligne de celle se déchargeant dans le fleuve St. Laurent, ont chacune besoin de deux intermédiaires, savoir, les unes de la rivière St. John, et de la baie Fundy, et les autres de la rivière Ristigouche, et de la baie des Chaleurs.

Et de l'autre :

Qu'on ne peut expliquer suffisamment, comment si les Hautes Parties Contractantes ont entendu établir en 1783 la limite au midi de la rivière St. John, cette rivière, à laquelle le terrain litigieux doit en grande partie son caractère distinctif, a été neutralisée, et mise hors de cause :

Que le verbe "divide" paraît exiger la contiguïté des objets, qui doivent être "divided;"

Que la dite limite forme seulement à son extrémité occidentale la séparation immédiate entre la rivière Mettjarmette, et la source Nord-Ouest du Penobscot, et ne sépare que médiatement les rivières se déchargeant dans le fleuve St. Laurent, des eaux du Kennebec, du Penobscot, et des Scoudiac Lakes, tandis que la limite réclamée au nord de la rivière St. John sépare immédiatement les eaux des rivières Ristigouche et St. John, et médiatement les Scoudiac Lakes et les eaux des rivières Penobscot et Kennebec, des rivières se déchargeant dans le fleuve St. Laurent, savoir, les rivières Beaver, Metis, Rimousky, Trois-Pistoles, Green, du Loup, Kamouraska, Ouelle, Bras St. Nicholas, du Sud, la Famine et Chaudière :

Que même en mettant hors de cause les rivières Ristigouche et St. John, par le motif, qu'elles ne pourraient être censées tomber dans l'Océan Atlantique, la ligne septentrionale

se trouverait encore aussi près des Scoudiac Lakes, et des eaux du Penobscot, et du Kennebec, que la ligne méridionale des rivières Beaver, Metis, Rimousky et autres, se déchargeant dans le fleuve St. Laurent, et formerait aussi bien que l'autre une séparation médiate entre celles-ci, et les rivières tombant dans l'Océan Atlantique:

Que la rencontre antérieure de la limite méridionale, lorsque de la source de la rivière Ste. Croix, on tire une ligne au nord, pourrait seulement lui assurer un avantage accessoire sur l'autre, dans le cas où l'une et l'autre limite réunissent au même degré les qualités exigées par les traités;

Et que le sort assigné par celui de 1783 au Connecticut, et au St. Laurent même, écarte la supposition que les deux Puissances auraient voulu faire tomber la totalité de chaque rivière, depuis son origine jusqu'à son embouchure, en partage à l'une, ou à l'autre:

Considérant :

Que d'après ce qui précède, les arguments allégués de part et d'autre, et les pièces exhibées à l'appui, ne peuvent être estimés assez prépondérants pour déterminer la préférence en faveur d'une des deux lignes respectivement réclamées par les Hautes Parties Intéressées, comme limites de leur possessions depuis la source de la rivière Ste. Croix jusqu'à la source Nord-Ouest de la rivière Connecticut; et que la nature du différend, et les stipulations vagues et non suffisamment déterminées du traité de 1783, n'admettent pas d'adjuger l'une ou l'autre de ces lignes à l'une des dites Parties, sans blesser les principes du droit, et de l'équité envers l'autre:

Considérant :

Que la question se réduit, comme il a été exprimé ci-dessus, à un choix à faire du terrain séparant les rivières, se déchargeant dans le fleuve St. Laurent de celles qui tombent dans l'Océan Atlantique; que les Hautes Parties Intéressées se sont entendues à l'égard du cours des eaux, indiqué de commun accord sur la Carte A, et présentant le seul élément de décision;

Et que, dès-lors, les circonstances dont dépend cette décision ne sauraient être éclaircies davantage, au moyen de nouvelles recherches topographiques, ni par la production de pièces nouvelles;

NOUS SOMMES D'AVIS:

Qu'il conviendra d'adopter pour limite des deux Etats une ligne tirée droit au nord depuis la source de la rivière Ste. Croix jusqu'au point où elle coupe le milieu du *thalweg* de la rivière St. John; de là, le milieu du *thalweg* de cette rivière, en la remontant, jusqu'au point où la rivière St. Francis se décharge dans la rivière St. John; de là, le milieu du *thalweg* de la rivière St. Francis, en la remontant, jusqu'à la source de sa branche la plus sud-ouest, laquelle source Nous indiquons sur la Carte A par la lettre X, authentiquée par la signature de Notre Ministre des Affaires Etrangères; de là, une ligne tirée droit à l'ouest, jusqu'au point où elle se réunit à la ligne réclamée par les Etats Unis d'Amérique, et tracée sur la Carte A; de là, cette ligne, jusqu'au point où, d'après cette carte, elle coïncide avec celle demandée par la Grande Bretagne; et de là, la ligne indiquée sur la dite carte par les deux Puissances, jusqu'à la source la plus Nord-Ouest de la rivière Connecticut.

Quant au second point, savoir, la question, quelle est la source la plus Nord-Ouest (*North westernmost head*) de la rivière Connecticut:

Considérant:

Que, pour résoudre cette question, il s'agit d'opter entre la rivière de Connecticut Lake, Perry's Stream, Indian Stream, et Hall's Stream:

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cision.

Northwest-
ernmost head
of Connecti-
cut river.

Considerant:

Que, d'après l'usage adopté en géographie, la source et le lit d'une rivière sont indiqués par le nom de la rivière attaché à cette source et à ce lit, et par leur plus grande importance relative, comparée à celle d'autres eaux communiquant avec cette rivière:

Considerant:

Qu'une lettre officielle de 1772 mentionne déjà le nom de Hall's Brook; et que dans une lettre officielle postérieure, de la même année, du même Inspecteur, on trouve Hall's Brook représenté comme une petite rivière tombant dans le Connecticut;

Que la rivière dans laquelle se trouve Connecticut Lake, paraît plus considérable que Hall's, Indian ou Perry's Stream; que le Connecticut Lake, et les deux lacs situés au nord de celui-ci, semblent lui assigner un plus grand volume d'eau qu'aux trois autres rivières; et qu'en l'admettant comme le lit du Connecticut, on prolonge davantage ce fleuve que si l'on donnait la préférence à une de ces trois autres rivières;

Enfin que la carte A ayant été reconnue dans la convention de 1837 comme indiquant le cours des eaux, l'autorité de cette carte semble s'étendre également à leur dénomination, vu qu'en cas de contestation tel nom de rivière, ou de lac, sur lequel on n'eût pas été d'accord, eût pu avoir été omis: que la dite carte mentionne Connecticut Lake, et que le nom de Connecticut Lake, implique l'application du nom Connecticut à la rivière, qui traverse le dit lac:

NOUS SOMMES D'AVIS:

Que le ruisseau situé le plus au nord-ouest de ceux, qui coulent dans le plus septentrional des trois lacs, dont le dernier porte le nom de Connecticut Lake, doit être considéré comme la source la plus Nord-ouest (*Northwesternmost head*) du Connecticut.

Parallel of
the 45th de-
gree of North
latitude.

Et quant au troisième point, savoir, la question, quelle est la limite à tracer depuis la rivière Connecticut le long du parallèle du 45e degré de latitude septentrionale, jusqu'au fleuve St. Laurent, nommé dans les traités Iroquois, ou Cataraugy:

Considerant:

Que les Haute-Parties Intéressées diffèrent d'opinion, sur la question de savoir si les traités exigent un nouveau levé de toute la ligne de limite depuis la rivière Connecticut jusqu'au fleuve St. Laurent, nommée dans les traités Iroquois ou Cataraugy, ou bien seulement le complément des anciens levés provinciaux:

Considérant:

Que le cinquième article du traité de Gand de 1814, ne stipule point, qu'on leverait telle partie des limites, qui n'auraient pas été levées jusqu'ici, mais déclare que les limites n'ont pas été levées, et établit qu'elles le seront:

Qu'en effet ce levé, dans les rapports entre les deux Puissances, doit être censé n'avoir pas eu lieu depuis le Connecticut jusqu'à la rivière St. Laurent, nommée dans les traités Iroquois ou Cataraugy, vu que l'ancien levé s'est trouvé inexact, et avait été ordonné non par les deux Puissances, d'un commun accord, mais par les anciennes autorités provinciales:

Qu'il est d'usage de suivre, en fixant la latitude, le principe de latitude observée:

Et que le Gouvernement des Etats Unis d'Amérique a établi certaines fortifications à l'endroit dit Rouse's Point, dans la persuasion, que le terrain faisait partie de leur territoire. —persuasion suffisamment légitimée par la ligne réputée jusqu'alors correspondre avec le 45e degré de latitude septentrionale:

NOUS SOMMES D'AVIS:

Qu'il conviendra de procéder à de nouvelles opérations pour mesurer la latitude observée, afin de tracer la limite depuis la rivière Connecticut, le long du parallèle du 45^e degré de latitude septentrionale, jusqu'au fleuve St. Laurent, nommé dans les traités Iroquois ou Cataraguy; de manière, cependant, qu'en tout cas, à l'endroit dit Rouse's Point, le territoire des Etats Unis d'Amérique s'étendra jusqu'au fort qui s'y trouve établi, et comptera de ce fort, et son rayon Kilométrique.

Ainsi fait et donné sous Notre Sceau Royal à La Haye, ce dix Janvier de l'An de Grâce mil huit cent trente un, et de Notre règne le dix huitième.

(Signé)

GUILLAUME.

Le Ministre des Affaires Etrangères,

(Signé)

VERSTOLK DE SOLLEN.

TRANSLATION.

WILLIAM, *by the Grace of God, King of the Netherlands, Prince of Orange*
Grand Duke of Luxembourg, &c. &c.

Having accepted the functions of Arbitrator conferred upon us by the President of the United States, and by that of the Ambassador Extraordinary and Plenipotentiary of Great Britain, to our Minister of Foreign Affairs, under date of the 12th January, 1829, agreeably to the 5th Article of the Treaty of Ghent, of the 24th December, 1814, and to the 1st Article of the Convention concluded between those Powers, at London, on the 29th of September, 1827, in the difference which has arisen between them on the subject of the boundaries of their respective possessions:

Animated by a sincere desire of answering, by a scrupulous and impartial decision, the confidence they have testified to us, and thus to give them a new proof of the high value we attach to it:

Having, to that effect, duly examined and maturely weighed the contents of the First Statement, as well as those of the Definitive Statement of the said difference, which have been respectively delivered to us on the 1st of April of the year 1830, by the Envoy Extraordinary and Minister Plenipotentiary of the United States of America, and the Ambassador Extraordinary and Plenipotentiary of His Britannic Majesty, with all the documents thereto annexed in support of them:

Desirous of fulfilling, at this time, the obligations we have contracted in accepting the functions of Arbitrator in the aforesaid difference, by laying before the two High Interested Parties the result of our examination, and our opinion on the three points into which, by common accord, the contestation is divided:

Considering that the three points abovementioned ought to be decided according to the Treaties, Acts and Conventions concluded between the two Powers; that is to say, the Treaty of Peace of 1783, the Treaty of Friendship, Commerce and Navigation of 1794, the

Arbiter's De-
cision.
Translation.

Northwest
Angle of No-
va Scotia.

Declaration relative to the River St. Croix of 1798, the Treaty of Peace signed at Ghent in 1814, the Convention of the 29th September, 1827; and Mitchell's Map, and the Map A. referred to in that Convention:

WE DECLARE, THAT,

As to the first point, to wit, the question, which is the place designated in the Treaties as the Northwest Angle of Nova Scotia, and what are the Highlands dividing the Rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, along which is to be drawn the line of boundary, from that angle to the Northwesternmost head of Connecticut River:

Considering:

That the High Interested Parties respectively claim that line of boundary at the south and at the north of the river St. John; and have each indicated, upon the Map A, the line which they claim:

Considering:

That according to the instances alleged, the term Highlands applies not only to a hilly or elevated country, but also to land which, without being hilly, divides waters flowing in different directions; and that thus the character more or less hilly and elevated of the country through which are drawn the two lines respectively claimed, at the north, and at the south, of the river St. John, cannot form the basis of a choice between them:

That the text of the 2nd Article of the Treaty of 1783, recites, in part, the words previously used, in the Proclamation of 1763, and in the Quebec Act of 1774, to indicate the southern boundaries of the Government of Quebec, from Lake Champlain, "in forty-five degrees of North latitude, along the highlands which divide the rivers that empty themselves into the river St. Lawrence, from those which fall into the Sea, and also along the North Coast of the Bay des Chaleurs;"

That in 1763, 1765, 1773, and 1782, it was established that Nova Scotia should be bounded at the north, as far as the western extremity of the Bay des Chaleurs, by the southern boundary of the Province of Quebec; that this delimitation is again found, with respect to the Province of Quebec, in the Commission of the Governor General of Quebec of 1786, wherein the language of the Proclamation of 1763, and of the Quebec Act of 1774, has been used, as also in the Commissions of 1786, and others of subsequent dates of the Governors of New Brunswick, with respect to the last mentioned Province, as well as in a great number of maps anterior and posterior to the Treaty of 1783; and that the 1st Article of the said Treaty specifies, by name, the States whose independence is acknowledged;

But that this mention does not imply (implique) the entire coincidence of the boundaries between the two Powers, as settled by the following Article, with the ancient delimitation of the British Provinces, whose preservation is not mentioned in the Treaty of 1783, and which, owing to its continual changes, and the uncertainty which continued to exist respecting it, created, from time to time, differences between the Provincial authorities:

That there results from the line drawn under the Treaty of 1783, through the great Lakes, west of the river St. Lawrence, a departure from the ancient Provincial charters, with regard to those boundaries:

That one would vainly attempt to explain why, if the intention was to retain the ancient Provincial boundary, Mitchell's Map, published in 1755, and consequently anterior to the Proclamation of 1763, and to the Quebec Act of 1774, was precisely the one used in the negotiation of 1783;

That Great Britain proposed, at first, the river Piscataqua as the eastern boundary of the United States; and did not subsequently agree to the proposition to cause the boundary of Maine, or Massachusetts Bay, to be ascertained at a later period:

That the Treaty of Ghent stipulated for a new examination on the spot, which could not be made applicable to an historical or administrative boundary:

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And that, therefore, the ancient delimitation of the British Provinces, does not, either, afford the basis of a decision;

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Angle of No
va Scotia.

That the longitude of the northwest angle of Nova Scotia, which ought to coincide with that of the source of the St. Croix river, was determined only by the Declaration of 1798, which indicated that river;

That the Treaty of Friendship, Commerce, and Navigation of 1794, alludes to the doubt which had arisen with respect to the river St. Croix; and that the first instructions of the Congress, at the time of the negotiations, which resulted in the Treaty of 1783, locate the said angle at the source of the river St. John;

That the latitude of that angle is upon the banks of the St. Lawrence, according to Mitchell's Map, which is acknowledged to have regulated the combined and official labors of the negotiators of the Treaty of 1783; whereas, agreeably to the delimitation of the Government of Quebec, it is to be looked for at the highlands which divide the rivers that empty themselves into the river St. Lawrence, from those which fall into the sea;

That the nature of the ground east of the before mentioned angle not having been indicated by the Treaty of 1783, no argument can be drawn from it to locate that angle at one place in preference to another;

That, at all events, if it were deemed proper to place it nearer to the source of the River St. Croix, and look for it at Mars' Hill, for instance, it would be so much the more possible that the boundary of New Brunswick, drawn thence north-easterly, would give to that Province several Northwest angles, situated farther north and east, according to their greater remoteness from Mars' Hill, from the fact that the number of degrees of the angle referred to in the Treaty has not been mentioned;

That, consequently, the Northwest angle of Nova Scotia, here alluded to, having been unknown in 1783, and the Treaty of Ghent having again declared it to be unascertained, the mention of that historical angle in the Treaty of 1783 is to be considered as a petition of principle (petition de principe) affording no basis for a decision; whereas, if considered as a topographical point, having reference to the definition, viz: "that angle which is formed by a line drawn due north from the source of the St. Croix River to the Highlands," it forms simply the extremity of the line "along the said Highlands, which divide those rivers that empty themselves into the river St. Lawrence, from those which fall into the Atlantic Ocean,"—an extremity which a reference to the Northwest angle of Nova Scotia does not contribute to ascertain, and which still remaining, itself, to be found, cannot lead to the discovery of the line which it is to terminate;

Lastly, that the arguments deduced from the rights of sovereignty exercised over the Fief of Madawaska, and over the Madawaska Settlement—even admitting that such exercise were sufficiently proved—cannot decide the question, for the reason that those two settlements only embrace a portion of the territory in dispute, and that the High Interested Parties have acknowledged the country lying between the two lines respectively claimed by them, as constituting a subject of contestation, and that, therefore, possession cannot be considered as derogating from the right; and that if the ancient delimitation of the Provinces be set aside, which is adduced in support of the line claimed at the north of the river St. John, and especially that which is mentioned in the Proclamation of 1763, and in the Quebec Act of 1774, no argument can be admitted in support of the line claimed at the south of the river St. John, which would tend to prove that such part of the territory in dispute belongs to Canada or to New Brunswick:

Considering:

That the question, divested of the inconclusive arguments drawn from the nature, no 16

Northwest-
Angle of No-
va Scotia.

or less busy, of the ground,—from the ancient delimitation of the Provinces,—from the Northwest angle of Nova Scotia, and from the actual possession, resolves itself, in the end, to these: which is the line drawn due north from the source of the river St. Croix, and which is the ground, no matter whether hilly and elevated, or not, which, from that line to the Northwesternmost Head of Connecticut river, divides the rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean: That the H^g Interested Parties only agree upon the fact that the boundary sought for, must be determined by such a line, and by such a ground; that they further agree, since the Declaration of 1763, as to the answer to be given to the first question, with the exception of the latitude at which the line drawn due north from the source of the St. Croix river is to terminate; that said latitude coincides with the extremity of the ground which, from that line to the Northwesternmost Head of Connecticut river, divides the rivers which empty themselves into the river St. Lawrence, from those which fall into the Atlantic Ocean; and that, therefore, from the same ground, that ground:

That on either supposition, it is discovered, on the one hand:

First, that, fully adopting the line claimed at the north of the river St. John, Great Britain cannot be considered as obtaining a territory of less value than if she had accepted, in 1763, the river St. John as her frontier, taking into view the situation of the country situated between the rivers St. John and St. Croix in the vicinity of the sea, and the possession of both banks of the river St. John in the lower part of its course, said equivalent could, nevertheless, be destroyed by the interruption of the communication between Lower Canada and New Brunswick, &c. especially between Quebec and Fredericton; and one would vainly seek to ascertain what the British would have determined the Court of London to consent to such an interruption.

That the line is a principle in contradistinction to the rivers that empty themselves into the river St. Lawrence, and is, in proper, agreeably to the language ordinarily used in Geography, to separate the rivers falling into the Bays of Fundy and des Chaleurs from those emptying themselves directly into the Atlantic Ocean, in the general denomination of rivers falling into the Atlantic Ocean, it would be hazardous to include into the classes belonging to that class the rivers St. John and Restigouche, which the line claimed at the north of the river St. John divides clearly from rivers emptying themselves into the river St. Lawrence, and from other rivers falling into the Atlantic Ocean, but alone; and thus to supply the long-continued delimitation established by a Treaty, where each word is so carefully selected for the most wisely special cases, and where no mention is made of the Bay of Fundy, and the Bay of Chaleurs, and it would ascribe to them a broader meaning; and thus to extend the limits of the Bay of Fundy, the Penobscot and the Kennebec, which empty themselves directly into the Atlantic Ocean, would establish the principle that the Treaty of 1763 mentions the lands which divide, as well mediately as immediately, the rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean—a principle, not only inapplicable, but unjust.

That, if the Treaty of 1763, inasmuch as the north of the river St. John does not divide, even immediately, the rivers that empty themselves into the river St. Lawrence from the rivers St. John and Restigouche, but only Rivers that empty themselves into the St. John and Restigouche, with the exception of the last part of said line, near the sources of the river St. John and the Penobscot, in order to reach the Atlantic Ocean, the rivers divided by that line from those that empty themselves into the river St. Lawrence, each need two intermediate Annals, to wit: the river St. John and the Bay of Fundy; and the river St. John and the Bay of Chaleurs:

And on the other hand,

That it cannot be sufficiently explained how, if the high Contracting Parties intended, in 1783, to establish the boundary at the south of the river St. John, that river, to which the territory in dispute is in a great measure indebted for its distinctive character, has been neutralized and set aside:

That the verb "divide" appears to require the contiguity of the objects to be divided:

That the said boundary forms at its western extremity, only, the immediate separation between the river Mettjarmette, and the Northwesternmost head of the Penobscot, and divides, mediately, only the rivers that empty themselves into the river St. Lawrence from the waters of the Kennebec, Penobscot and Schoodiac Lakes; while the boundary claimed at the north of the river St. John divides, immediately, the waters of the rivers Ristigouche and St. John, and mediately, the Schoodiac Lakes, and the waters of the rivers Penobscot and Kennebec, from the rivers that empty themselves into the river St. Lawrence, to wit: the rivers Beaver, Metis, Rimousky, Trois Pistoles, Green, Du Loup, Kamouraska, Ouelle, Bras St. Nicholas, Du Sud, La Famine and Chaudiere:

That even setting aside the rivers Ristigouche and St. John, for the reason that they could not be considered as falling into the Atlantic Ocean, the northern line would still be as near the Schoodiac Lakes, and to the waters of the Penobscot and of the Kennebec, as the southern line would be to the rivers Beaver, Metis, Rimousky, and others that empty themselves into the river St. Lawrence; and would, as well as the other, form a mediate separation between these and the rivers falling into the Atlantic Ocean:

That the prior intersection of the southern boundary by a line drawn due north from the source of the St. Croix river, could only secure to it an accessory advantage over the other, in case both the one and the other boundary should combine, in the same degree, the qualities required by the Treaties:

And that the fate assigned by that of 1783 to the Connecticut, and even to the St. Lawrence, precludes the supposition that the two Powers could have intended to surrender the whole course of each river from its source to its mouth, to the share of either the one or the other:

Considering:

That, after what precedes, the arguments adduced on either side, and the documents exhibited in support of them, cannot be considered as sufficiently preponderating to determine a preference in favor of one of the two lines respectively claimed by the High Interested Parties, as the boundaries of their possessions, from the source of the river St. Croix to the Northwesternmost head of the Connecticut river; and that the nature of the difference and the vague and not sufficiently determinate stipulations of the Treaty of 1783, do not permit to adjudge either of those lines to one of the said Parties, without wounding the principles of law and equity, with regard to the other:

Considering:

That, as has already been said, the question resolves itself into a selection to be made of a ground dividing the rivers that empty themselves into the river St. Lawrence from those that fall into the Atlantic Ocean; that the High Interested Parties are agreed with regard to the course of the streams delineated by common accord on the Map A, and affording the only basis of a decision:

And that, therefore, the circumstances upon which such decision depends, could not be further elucidated by means of fresh topographical investigation, nor by the production of additional documents:

Arbiter's De-
cision.
Translation.

WE ARE OF OPINION:

That it will be suitable [*il conviendra*] to adopt, as the boundary of the two States, a line drawn due north from the source of the river St. Croix to the point where it intersects the middle of the thalweg* of the river St. John; thence, the middle of the thalweg of that river, ascending it, to the point where the river St. Francis empties itself into the river St. John; thence, the middle of the thalweg of the river St. Francis, ascending it, to the source of its southwesternmost branch, which source we indicate on the Map A, by the letter X, authenticated by the signature of our Minister of Foreign Affairs; thence, a line drawn due west, to the point where it unites with the line claimed by the United States of America, and delineated on the Map A; thence, said line to the point at which, according to said map, it coincides with that claimed by Great Britain; and thence, the line traced on the map by the two Powers, to the northwesternmost source of Connecticut River.

Northwest-
ernmost Head
of Connecti-
cut River.

As regards the second point, to wit: the question, which is the Northwesternmost head of Connecticut river:

Considering:

That, in order to solve this question, it is necessary to choose between Connecticut-lake River, Perry's Stream, Indian Stream and Hall's Stream:

Considering:

That, according to the usage adopted in geography, the source and the bed of a river are denoted by the name of the river which is attached to such source and to such bed, and by their greater relative importance, as compared to that of other waters communicating with said river:

Considering:

That an official letter of 1772 already mentions the name of Hall's Brook, and that, in an official letter of subsequent date, in the same year, Hall's Brook is represented as a small river falling into the Connecticut;

That the river in which Connecticut Lake is situated appears more considerable than either Hall's, Indian or Perry's Stream; that Connecticut Lake and the two Lakes situated northward of it, seem to ascribe to it a greater volume of water than to the other three rivers; and that by admitting it to be the bed of the Connecticut, the course of that river is extended farther than it would be if a preference were given to either of the other three rivers;

Lastly, that the Map A. having been recognised by the Convention of 1827, as indicating the courses of streams, the authority of that map would likewise seem to extend to their appellation; since, in case of dispute, such name of river, or lake, respecting which the parties were not agreed, may have been omitted; that said map mentions Connecticut Lake, and that the name of Connecticut Lake implies the applicability of the name of Connecticut to the river which flows through the said lake:

**Thalweg*—a German compound word—*Thal*, valley,—*weg*, way. It means here, the deepest channel of the river.—*Trans. below.*

WE ARE OF OPINION:

That the stream situated farthest to the northwest among those which fall into the northernmost of the three Lakes, the last of which bears the name of Connecticut Lake, must be considered as the northwesternmost head of Connecticut river.

And as to the third point, to wit: the question, which is the boundary to be traced from the river Connecticut, along the parallel of the 45th degree of north latitude, to the river St. Lawrence, named in the Treaties Iroquois or Cataraguy:

Considering:

That the High Interested Parties differ in opinion as to the question—Whether the Treaties require a fresh survey of the whole line of boundary from the river Connecticut to the river St. Lawrence, named in the Treaties Iroquois or Cataraguy, or simply the completion of the ancient provincial surveys:

Considering:

That the fifth article of the Treaty of Ghent of 1814, does not stipulate that such portion of the boundaries which may not have hitherto been surveyed, shall be surveyed; but declares that the boundaries have not been, and establishes that they shall be, surveyed:

That, in effect, such survey ought, in the relations between the two Powers, to be considered as not having been made from the Connecticut to the river St. Lawrence, named in the Treaties Iroquois or Cataraguy, since the ancient survey was found to be incorrect, and had been ordered, not by a common accord of the two Powers, but by the ancient provincial authorities:

That in determining the latitude of places, it is customary to follow the principle of the observed latitude;

And that the Government of the United States of America has erected certain fortifications at the place called Rouse's Point, under the impression that the ground formed part of their territory—an impression sufficiently authorized by the circumstance that the line had, until then, been reputed to correspond with the 45th degree of north latitude:

WE ARE OF OPINION:

That it will be suitable [il conviendra] to proceed to fresh operations to measure the observed latitude, in order to mark out the boundary from the river Connecticut along the parallel of the 45th degree of north latitude to the river St. Lawrence, named in the Treaties Iroquois or Cataraguy, in such a manner, however, that, in all cases, at the place called Rouse's Point, the territory of the United States of America shall extend to the fort erected at that place, and shall include said fort and its Kilometrical radius [rayon Kilometrique.]

Thus done and given under our Royal Seal, at the Hague, this tenth day of January, in the year of our Lord one thousand eight hundred and thirty-one, and of our Reign the eighteenth.

(Signed)

WILLIAM

The Minister of Foreign Affairs:

(Signed)

VERFOLK DE SOFFEN.

PROTEST.

THE HAGUE, 12th January, 1851.

Minister of
the American
Ministry.

The Under-signed, Minister Plenipotentiary and Envoy Extraordinary of the United States of America, had the honor to receive from the hands of His Majesty, the King of the Netherlands, on the 10th instant, a document purporting to be an expression of his opinion on the several points submitted to him as Arbitrer, relative to certain portions of the boundary of the United States. In a period of much difficulty, His Majesty has had the goodness, for the purpose of conciliating conflicting claims and pretensions, to devote to the High Parties Interested, a time that must have been precious to himself and people. It is with extreme regret, therefore, that the Under-signed, in order to prevent all mis-conception, and to vindicate the rights of his Government, feels himself compelled to call the attention of His Excellency, the Baron Verstolk Van Soelen, His Majesty's Minister of Foreign Affairs, again to the subject. But while, on the one hand, in adverting to certain views and considerations, which seem in some measure, perhaps, to have escaped observation, the Under-signed will deem it necessary to do so with simplicity and frankness; he could not, on the other, be wanting in the expressions of a most respectful deference for His Majesty, the Arbitrer.

The language of the Treaty, which has given rise to the contestation between the United States and Great Britain, is, "And that all disputes which might arise in future on the subject of the boundaries of the said United States may be prevented, it is hereby agreed and declared, that the following are and shall be their boundaries, viz: from the northwest angle of Nova Scotia, viz: that angle which is formed by a line drawn due north from the source of the St. Croix river, to the highland; along the said highlands which divide those rivers that empty themselves into the river St. Lawrence, from those which fall into the Atlantic ocean, to the northwesternmost head of Connecticut river: thence, down along the middle of that river, to the forty-fifth degree of north latitude: from thence, by a line due west on said latitude, until it strikes the river Iroquois or Cataraguy, . . . East, by a line to be drawn along the middle of the river St. Croix, from its mouth in the bay of Fundy, to its source; and from its source directly north, to the afore-said highland, which divide the rivers that fall into the Atlantic ocean, from those which fall into the river St. Lawrence." The manner of carrying this apparently exceedingly definite and lucid description of boundary into effect, by running the line as described, and marking the same on the surface of the earth, was the subject, the sole, exclusive subject, submitted by the Convention of September, 1827, in pursuance of the Treaty of Ghent, 1814, to an arbitrer.

If, on investigation, that arbitrer found the language of the Treaty, in his opinion, inapplicable to, and wholly inconsistent with, the topography of the country, so that the Treaty of 1763, in regard to its description of boundary, could not be executed according to its own express stipulations, no authority whatever was conferred upon him to determine or consider what practicable boundary line should, in such case, be substituted and established. Such a question of boundary as is here supposed, the United States of America would, it is believed, submit to the definitive decision of no sovereign. And in

the case submitted to His Majesty, the King of the Netherlands, the United States, in forbearing to delegate any such power, were not influenced by any want of respect for that distinguished monarch. They have, on the contrary, given him the highest and most signal proofs of their consideration and confidence. In the present case especially, as any revision or substitution of boundary whatever, had been steadily, and in a spirit of unalterable determination, resisted at Ghent and at Washington, they had not anticipated the possibility of there being any occasion for delegating such powers.

Among the questions to which the language of the Treaty of 1763, already quoted, gave rise between the High Parties Interested, is the following, viz: where, at a point due north from the source of the river St. Croix, are the highlands which divide the rivers that empty themselves into the river St. Lawrence, from those that fall into the Atlantic ocean; at which same point on said highlands was also to be found the northwest angle of the long established, well known, and distinctly defined, British Province of Nova Scotia.

On the southern border of the river St. Lawrence, and at the average distance from it of less than thirty English miles, there is an elevated range or continuation of broken highland, extending from Cape Rosieres, southwesterly to the sources of Connecticut river, forming the southern border of the basin of the St. Lawrence and the *ligne des versants* of the rivers emptying into it. The same highlands form also the *ligne des versants*, on the north of the river Ristigouche, emptying itself into the bay des Chaleurs, the river St. John with its northerly and westerly branches emptying into the bay of Fundy, the river Penobscot with its northwesterly branches emptying into the bay of Penobscot, the rivers Kennebec and Androscoggin, whose united waters empty into the bay of Sagadahock, and the river Connecticut emptying into the bay usually called Long Island Sound. These bays are all open arms of the sea or Atlantic ocean; are designated by these names on Mitchell's map; and, with the single exception of Sagadahock, are all equally well known, and usually designated, by their appropriate names. This *ligne des versants* constitutes the highlands of the treaty, as claimed by the United States.

There is another *ligne des versants*, which Great Britain claims as the highlands of the Treaty. It is the dividing ridge that bounds the southern side of the basin of the river St. John, and divides the streams that flow into the river St. John, from those which flow into the Penobscot and St. Croix. No river flows from this dividing ridge into the river St. Lawrence. On the contrary, nearly the whole of the basins of the St. John and Ristigouche intervene. The source of the St. Croix also is in this very *ligne des versants*, and less than an English mile distant from the source of a tributary stream of the St. John. This proximity, reducing the due north line of the treaty, as it were, to a point, compelled the provincial agents of the British Government to extend the due north line over this dividing ridge into the basin of the St. John, crossing its tributary streams to the distance of about forty miles from the source of the St. Croix, to the vicinity of an isolated hill between two tributary streams of the St. John. Connecting that isolated hill with the *ligne des versants*, as just described, by passing between said tributary streams, they claimed it as constituting the highlands of the treaty.

These two ranges of highlands, as thus described, the one contended for by the United States, and the other by Great Britain, His Majesty, the Arbitrer, regards as comporting equally well in all respects, with the language of the treaty. It is not the intention of the Undersigned, in this place, to question in the slightest degree the correctness of His Majesty's conclusion. But when the Arbitrer proceeds to say, that it would be suitable to run the line due north from the source of the river St. Croix, not to the highlands which divide the rivers that fall into the Atlantic ocean from those which fall into the river St. Lawrence, but to the centre of the river St. John, thence to pass up said river to the mouth of the river St. Francis

Protest of the American Minister. cis, thence up the river St. Francis to the source of its southwesternmost branch, and from thence by a line drawn west unto the point where it intersects the line of the highlands as claimed by the United States; and only from thence to pass along said highlands, which divide the rivers that fall into the Atlantic ocean, from those which fall into the river St. Lawrence, to the northwesternmost head of Connecticut river; thus abandoning altogether the boundaries of the Treaty, and substituting for them a distinct and different line of demarcation—it becomes the duty of the Undersigned, with the most perfect respect for the friendly views of the Arbiter, to enter a Protest against the proceeding, as constituting a departure from the power delegated by the High Parties Interested, in order that the rights and interests of the United States may not be supposed to be committed by any presumed acquiescence on the part of their Representative near His Majesty, the King of the Netherlands.

The Undersigned avails himself of this occasion to renew to the Baron Verstolk Van Soelen, the assurances of his high consideration.

(Signed)

WM. P. PREBLE.

His Excellency the Baron VERSTOLK VAN SOELEN, }
His Majesty's Minister of Foreign Affairs. }



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